Office of the Ombudsman

PROVINCE OF ALBERTA

REPORT

OF THE

OMBUDSMAN

FOR THE PERIOD JANUARY 1 - OCTOBER 31, 1969

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PRESENTED TO THE LEGISLATURE
PURSUANT TO SECTION 26(1) OF
THE OMBUDSMAN ACT

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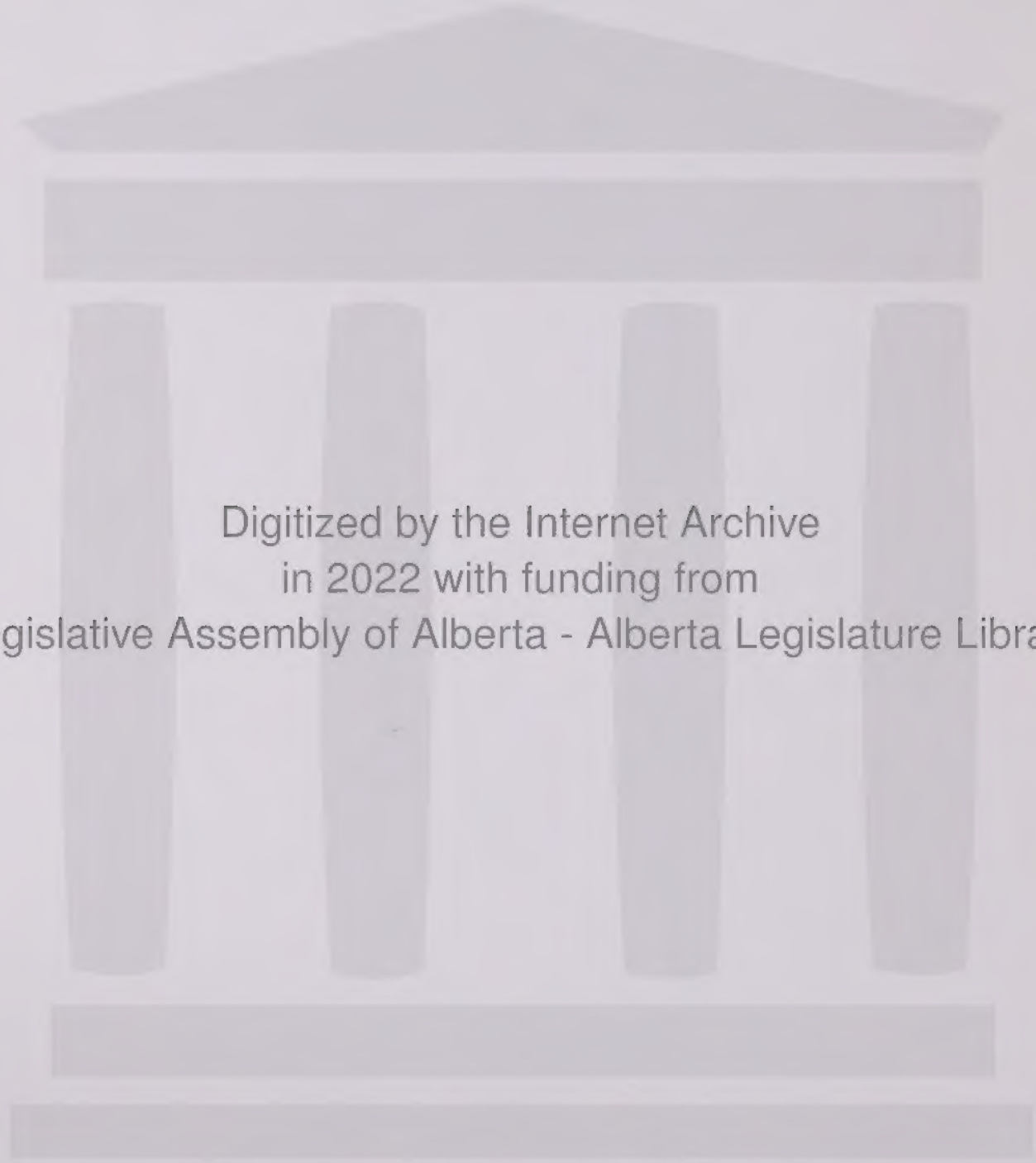

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Cases in Appendix I, II, and III marked with an asterisk in left column are summarized in Appendix IV.

MR. SPEAKER:

I have the honour to submit my third report since assuming the Office of Ombudsman for the Province of Alberta. This report covers the ten month period from January 1st, 1969, to October 31st, 1969.

In my report last year, I proposed to close the reporting year this year and henceforward, on October 31st. The reason was to allow more time for the preparation, writing and printing of the Annual Report for submission to the Legislature at its next following Session.

Therefore the report next year will cover the 12 month operation from November 1st, 1969 to October 31st, 1970.

Cases Handled — 1967

At the close of the calendar year 1968, I reported that there were 32 cases still outstanding from the previous year 1967. These cases have now been disposed of as follows:

Rectified	8
Not Justified	11
Abandoned	2
Declined	3
Discontinued	1
Under investigation	7
TOTAL	32

Nineteen of the 1967 cases which remained unfinished at the beginning of 1969, were investigated to conclusion. These are the total of the cases Rectified, and the cases Not Justified. It will be seen that just over 42% of the completed cases were Justified and Rectified.

There were seven unconcluded 1967 cases remaining at the end of October 31, 1969. Two of these are suspended, as they involve enquiries into the merits of decisions of a Government Board. Such cases have had to be suspended due to a challenge of my jurisdiction, offered by the Minister of Municipal Affairs, on behalf of the Provincial Planning Board.

I have asked the Supreme Court of Alberta for a Declaratory Order covering my jurisdiction. The Ombudsman Act gives me the authority to make such an application.*

The other five cases all involve complaints against the Workmen's Compensation Board, four of which will be concluded within a very short time.

Details of 1967 concluded cases appear in Appendix I.

* 12(2).

Cases Handled — 1968

There were 535 complaints received during the calendar year 1968. Of these, 126 were still unconcluded at the end of that year. These have been dealt with in the current year as follows:

Rectified	17
Not Justified	40
No Jurisdiction	5
Abandoned	7
Withdrawn	6
Declined	14
Discontinued	4
Under investigation	33
TOTAL	126

Of the 1968 cases carried forward into 1969, and taken to conclusion, being the total of those "Not Justified" and those "Rectified"; 29.75% were Justified and Rectified. Details of the 1968 concluded cases are shown in Appendix II.

Cases Handled — 1969

As mentioned previously, the reporting period for 1969 covers the first ten months of the year only.

I believe it is therefore important to record that in the first ten months of 1969, the Ombudsman received a total of 627 complaints, or 92 more than the total of 535 received during the entire 12 months of 1968. There is not yet any indication of a levelling off of the volume of incoming complaints.

It is my constant concern that the number of complaints concluded should not lag too far behind the volume of complaints received. The old legal maxim that "Justice deferred is justice denied," must surely have a particular application to the Office of the Ombudsman.

The disposition of the 627 complaints received from January 1st to October 31st, 1969 is as follows:

Rectified	33
Not Justified	74
Abandoned	19
Withdrawn	11
Information Supplied	5
Discontinued	15
Declined	59
No Jurisdiction	243
Under Investigation	168
TOTAL	627

Details of the 1969 cases are shown in Appendix III.

It may be helpful at this point to summarize the statistics of all investigations from previous years, which were still under investigation at the beginning of 1969, together with the 627 new complaints received in the first ten months of 1969.

From 1967	32	
From 1968	126	
Received 1969	627	
TOTAL	785	785
Files concluded in 1969 for all reasons		577
Files completely investigated and concluded		183
Rectified		58
Still under investigation		208

It will be seen that of the 183 complaints which qualified for a full investigation and were concluded, 31.69% were justified by the investigation and were rectified.

Last year there was considerable interest expressed in the monthly volume of incoming complaints, and I again include those figures for 1969 hereunder:

1969	
January	46
February	32
March	71
April	59
May	68
June	77
July	65
August	70
September	69
October	70
TOTAL	627

Cases Investigated — 1969

I regret to have to report that this year, for the first time, I found it necessary to refer two cases to the Lieutenant-Governor in Council, expressing my opinion that the complaints were justified, and recommending in one case, that funds contributed by the complainant to the Alberta Teachers' Retirement Fund be returned to him, with interest earned. In the second case, I recommended financial compensation be paid to the complainant for extended loss of particular employment.

The first case involved a complaint against the Board of Administrators of the Teachers' Retirement Fund. It is summarized in Appendix IV under Dept. of Education.

My written and oral presentations to the Board were completely unsuccessful, and eventually by authority of The Ombudsman Act,* I submitted my report, together with my opinion and recommendations to the Lieutenant-Governor in Council.

* Section 17(4)

I was advised by the President of the Executive Council shortly thereafter, that the Board of Administrators of the Teachers' Retirement Fund, would reconsider the matter at an early meeting. The meeting was held and the Assistant Secretary-Treasurer of the Board wrote me that a by-law would be approved, which in due course would permit the return of funds contributed by the complainant, to him with accrued interest. A cheque in his favour is now being processed.

The second submission to the Lieutenant-Governor in Council, is still before the Council for consideration, and I shall therefore not go into details at this time.

I am pleased to be able to report that this year there are a noticeable number of cases being satisfactorily rectified by Departments of the Government, upon receipt of notice of the complaint from the Ombudsman's Office, but before any investigation is required by the Ombudsman. This is a trend greatly to be desired, and one which I hope will spread.

There have also been incidents where a wrathful citizen will arrive at the Ombudsman's office, directly from an unfruitful interview in a Government Department. He has apparently indignantly announced his intention of going to the Ombudsman, which he has done.

Statutory requirement that he put his complaint in writing, is explained to him. It is not uncommon, that a day or two after his departure from my office to write the necessary letter, we receive word from him that his problem has been resolved by the Department, to his satisfaction.

The practise of reviewing their own procedures and decisions in a particular case, when Departments are first notified that a complaint has been made to the Ombudsman, is an excellent one. If it continues, two benefits should follow.

First, if the Department finds it has erred, it has the opportunity to remedy the situation of its own volition, and without waiting for an investigation. On the other hand, if the Department feels that it is not at fault, it can then marshal its facts, files and explanations so that they will be available when the Ombudsman opens his enquiry. Time is saved for both the Department and the Ombudsman; time which can be devoted to the public good elsewhere.

Of the 627 complaints received in 1969, 168 are still under investigation, and 352 have been disposed of as being out of my jurisdiction, or for other reasons. The number of investigations taken to completion, is the sum of those Not Justified and those Rectified, or 107. Of these, 33 cases were Rectified or 30.85% of all cases where the investigation is completed.

Something of a pattern appears to be emerging over the three Annual Report years. Very close to an average one-third of all complaints which qualify for a full investigation, turn out to be justified complaints which require remedial action.

Organization and Work of the Office

There have been two additions to the staff of the Ombudsman's Office this year. Mr. W. E. McElhone has been installed as Complaints' Analyst, a position approved in the last budget. He will screen all incoming complaints against the provisions of The Ombudsman Act, to insure that all incoming complaints meet the requirements of jurisdiction, and if they are subject to a discretion by the Ombudsman. He will insure that such complaints meet other requirements

of The Ombudsman Act as well, before the complaint is placed before the Ombudsman for his decision on rejection or investigation.

Mr. McElhone will check at intervals to make sure the file is current and active until the investigation is completed.

When the investigation is concluded, the Investigator's report is submitted to the Ombudsman and the Ombudsman's decision is made as to whether the complaint is justified or not, and the case concluded. It will then be Mr. McElhone's duty to see that all the essential concluding reports have been forwarded and that all action required by The Ombudsman Act to conclude the file has been taken.

Mr. McElhone has had many years of experience in the investigation of major complicated cases. He retired from the Federal Civil Service as a Senior Investigator with the Department of National Revenue (Taxation Division). His background and experience are decided assets to this Office where the major operational function is one of investigation requiring a knowledge of the general operation of Departments of Government.

Additionally, Miss J. L. Trautman has joined the stenographic staff with very favourable results.

I have asked for a modest addition to the staff for the next fiscal year to meet the increasing volume of complaints.

I would reiterate my remarks of last year that the Ombudsman's Office must respond to the volume of complaints received, and it has no control over that volume. This Office cannot plan the amount of work it will carry out in a succeeding year. It must react to the work which the public puts before it.

Therefore, the Ombudsman's Office should have some budget and staff flexibility during the first few years of its operations, until some useful pattern of probable volume of complaints begins to be evident. Historically, in other countries the volume is larger at the beginning; it increases for several years; then levels off and eventually there is some decline.

The statistics of cases dealt with do not illustrate the time taken to investigate one particular case, as compared to another. Some inquiries can be finished in a day or two. Others however, take weeks or months and in some cases have taken over two years to conclude.

A study of Appendix I will show that some investigations commenced in 1967 have not been completed until 1969 and a very small number are not yet concluded.

The investigation of the matter which led to my second submission to the Lieutenant Governor In Council, commenced in early 1968. The documentary evidence compiled during the investigation occupies a full drawer of a filing cabinet, and the submission to the Executive Council is an extremely lengthy one.

In that case the Solicitor to the Ombudsman was required to travel out of the Province on one phase of the investigation and literally months of inquiry, study, research and discussion were involved. This case is not yet concluded.

I referred previously in this report to a challenge to my jurisdiction by the Minister of Municipal Affairs on behalf of a division of the Provincial Planning Board. This division whose functions have now been abolished by an amendment to The Planning Act, operated under its own Chairman, as distinct

from the Deputy Minister of Municipal Affairs, who is Chairman of the full Board. The division referred to, under its Chairman, dealt with an appeal by a developer against a decision of the Edmonton City Council in a matter which generally had to deal with zoning. The Board overruled the verdict of the Council of the City of Edmonton, which had declined to permit the developer to proceed with his plan.

The homeowner and his wife, who were affected by the decision complained to the Ombudsman.

I will not go into this aspect of the case in detail, as the question of my jurisdiction to deal with the merits of the decision in this case, as I did, is under consideration by the Chief Justice of the Supreme Court of Alberta (Trial Division).

When my jurisdiction to criticize the Board's decision was challenged by the Minister of Municipal Affairs, I applied to the Supreme Court of Alberta for a Declaratory Order defining my jurisdiction. The authority to make such an application is in The Ombudsman Act.*

It should be clearly understood that the Ombudsman does not apply to the Court seeking jurisdiction. He is merely asking the Court to instruct him as to whether he already possesses the jurisdiction which has been challenged. He is neither protagonist nor advocate. The decision which he receives would in due course be conveyed to the Legislature for the information and consideration of that body.

This particular presentation to the Court involved the Solicitor and myself in many hours of research and discussion.

Mr. Weir, the Solicitor to the Ombudsman, spent much time seeking precedents from other countries where the Ombudsman system has been adopted. He then of course had his briefs to prepare which were discussed at length with myself.

Such challenges to the jurisdiction of the Ombudsman are rare in other countries where a similar Ombudsman Act is in force. This is particularly so, as the Ombudsman's opinions and recommendations are always subject to scrutiny and reversal at the level of the Minister, or the Lieutenant-Governor-in-Council, or eventually, the Legislature itself, as the case may be.

I therefore regard this challenge to my jurisdiction as something which must be clearly resolved, before I can continue my investigations into a considerable number of other cases involving the merits of decisions by various Boards and Tribunals, even though my jurisdiction has not yet been questioned in these other areas. A considerable number of complaints must therefore remain unresolved until a Declaratory Order is handed down by the Court.

It may be somewhat ironic that my criticisms of the administrative operations and procedures which followed the decision of the Planning Board received a more ready acceptance.

Concurrently with my investigation of the decision taken by the Board on the merits of the case itself, I had investigated as well what I considered to be administrative malfunctions. These occurred after the decision was taken.

For instance the developer, who was the appellant, was notified in writing of the Board's decision about six days after the decision was made. The com-

* Section 12 (2)

plainant on the other hand, the homeowner previously referred to, was not informed until two months after the decision. This notification took the form of a copy of the Board's signed Official Order dated almost two months after the developer had been notified of the decision. By this time, the construction of the apartment buildings had already started.

Other protesting homeowners who had received notification of the hearing by the Planning Board were present at the hearing to protest any decision favourable to the developer. At the time I concluded this investigation, none of them, so far as I am aware, had received any notice of the Board's decision.

I brought this evidence of administrative error to the attention of the new Minister of Municipal Affairs. The portfolio had been transferred to the Honourable F. C. Colborne since the challenge to my jurisdiction.

I had a most useful discussion with the Minister, who agreed that the purely administrative procedures were faulty.

We mutually agreed that the property of the complainant and her husband should be appraised by two independent professional appraisers at Government expense. The purpose was to ascertain if the intrusion of apartment blocks into the zoned Residential area had reduced the value of the complainant's property.

This appraisal was being carried out when this reporting year closed on October 31. I have been assured by the Minister that should the appraisal indicate a loss of value of the property to the complainant, the Minister would be prepared to recommend to the Executive Council that the complainant be indemnified from public funds. It is gratifying to know that whatever the decision regarding my jurisdiction may turn out to be, the complainant will not suffer by it. I might mention that I have carried out other investigations involving the decisions of the Planning Board where I found no fault. My jurisdiction went unchallenged in those instances.

The preparation of this report has proven the merit of closing the reporting year on October 31 instead of December 31.

The increased volume of work, the legal proceedings in which I have been deeply involved with the Solicitor to my Office, and the early opening of the Legislative Session in 1970, would have made it almost impossible to have the Report ready for the Session otherwise.

Publicity

I have filled forty-one public speaking engagements this year, both within and without the Province, dealing with the responsibilities and problems of the Ombudsman in Alberta. These have been thoroughly covered by the Press in most parts of Canada, resulting in numerous inquiries to the office for further information. These have come from Universities, Public Libraries, students, study groups, and various other organizations and individuals.

In fact, some inquiries from graduate students of Universities, who are basing their Master's Thesis on the Ombudsman, have put forward so many questions, that at times I suspected I was being "conned" into writing the Thesis myself. However, I tried to provide as much information as our time and resources will permit.

I have undergone twelve T.V. and special Press interviews aside from the usual normal inquiries from the Press. Extracts from some of these programs have appeared on National Television News. There have also been a number of taped radio interviews.

I was interested to discover that a lead article on the Alberta Ombudsman, which appeared in "WEEKEND MAGAZINE", produced an almost instantaneous upward surge in the volume of complaints received. Most of them were from Alberta, but a number were from other provinces. The article appeared on May 24, 1969. The largest monthly total of complaints received was in June 1969.

I am already committed to a considerable number of speaking engagements throughout the Province in the year ahead. It is important that the people of Alberta become aware of the Ombudsman's jurisdiction and how he works.

The Province of Manitoba has now passed legislation authorizing the appointment of an Ombudsman for that Province. I am advised that a suitable candidate is now being sought.

An equivalent office has been introduced in the Province of Quebec under the name of Public Protector. Doctor Louis Marceau assumed office in May of 1969.

He has written me expressing a desire to visit my office for discussions, and I have, of course, extended a sincere welcome to Doctor Marceau at any time. I have forwarded him copies of my Annual Reports and The Ombudsman Act for the Province.

I was in Montreal some weeks ago, and I was interested to note that although the official title is Public Protector, he is popularly referred to as the Ombudsman.

I received inquiries for available reports from Mr. Herman S. Doi, the Ombudsman for the State of Hawaii. Copies of my Annual Reports have been forwarded to Mr. Doi, together with other information, which I hope will be of use to him. He assumed office on July 1, 1969; the first State Ombudsman in the United States.

Acknowledgements

Among the visitors at the office this year were officials from Abroad who wished to discuss the operation of the Alberta Ombudsman at first hand.

I was pleased to have had here for several days Mr. S. Kapunan of the Philippine Department of Justice. He was in Canada as a United Nations Fellowship Student, studying government administration, and his visit was arranged through Ottawa.

During my absence Mr. Euchi Kato, a lawyer of the Public Assistance Division of the Japanese Government, had discussions with Mr. Weir, the solicitor to the Office of the Ombudsman. Matters of mutual interest dealing with the responsibilities of the Ombudsman and methods of procedure were discussed.

Apparently as a result of the circulation of my Annual Reports, and the publicity given to various cases, or to talks which I have made, a number of writers, and teachers, have been kind enough to send me copies of articles and pamphlets of considerable interest.

The pamphlets covered such matters as the care of the mentally disturbed, penal reform, civil rights and other matters in which protection of the public is involved. Such papers form useful additions to our small but expanding reference library, and I am most grateful to the donors.

Research

As mentioned elsewhere, much time has been consumed in the preparation of briefs for the Supreme Court of Alberta, dealing with the current challenge to the jurisdiction of the Ombudsman in certain matters.

Additionally, the solicitor, Mr. Weir, and myself have carried out a very considerable study of the co-operative movement, and the legislation covering the operation of Co-operatives in this Province. Our study had to do with the case which is now before the Lieutenant-Governor in Council for a decision.

Mr. Weir has, in the past year, taken or is now taking, the following courses:

1. Annual Law Refresher Course, Banff, Alberta, specifically dealing with expropriation.
2. Seminar at the University of Alberta dealing with the Alberta Rules of Court.
3. Department of Extension, University of Alberta, dealing with Public Administration.

Mr. Groenland, the Chief Investigator, has taken or is now taking the following extension courses:

1. In-service Training Course of the Department of Social Development.
2. Department of Extension, University of Alberta, Psychology of Human Behaviour.

Mrs. Lois Holland, my Secretary, is taking the following course at the Department of Extension, University of Alberta:

1. Introduction to Personal Counselling.

It is encouraging that each of these members of my staff voluntarily asked to take these courses. The knowledge gained can only serve to create a better understanding of the motivation and reactions of people in trouble, and will enable each of the participants to serve the public more comprehensively and sympathetically.

Legislation

I referred elsewhere in this report to my application to the Supreme Court of Alberta for a Declaratory Order on a matter of jurisdiction.*

Mr. Weir, Solicitor to the Ombudsman, presented the application for a Declaratory Order and spoke to it. The Respondent was the Attorney General. The Chief Justice (Trial Division) has reserved his decision, which I shall in due course communicate to the Speaker when it is available.

* The Ombudsman Act, Section 12(2)

Again this year there are no other sections of The Ombudsman Act which have created any real difficulties, and other than in the matter before the Courts at present, I appear to have ample authority to carry out my responsibilities.

I would once again express the view which I included in my report last year, that I believe there would be merit in a wider application of the provisions of The Administrative Procedures Act. I do feel that such application would tend to reduce the number of complaints received involving allegations of insufficient opportunity for the complainant to fully present his side of a case.

The largest number of complaints involving any agency or Department of the Government was again this year against the Workmen's Compensation Board. Such a situation is to be expected where Government agencies or departments are dealing with the most fundamental issues of life itself. In this case these issues are accidents, injuries, or loss of health, resulting in loss of livelihood, family hardship and poverty. Other departments of Government such as the Departments of Social Development, Health, and the Department of the Attorney General, are vulnerable by the nature of their function, and should not be judged solely on the number of complaints against the Department.

As I reported last year, I had to decline a number of complaints against the Workmen's Compensation Board, because the complainant had not appealed the Board's decision in his case, although he had a right to do so under The Workmen's Compensation Act.*

The Ombudsman Act does not authorize me to commence an investigation where other avenues of appeal and review are still open to the complainant.**

I also reported last year that many complainants were unaware that they had this right of appeal under Section 27, and they had never been told that they had such a right.

Following discussions with the Board last year, I stated in my report that I had every reason to believe that notification of further appeals would be given in the future as a matter of Board policy. I find, however, that such notification, if given, does not generally advise the applicant of his right of appeal under Section 27. I am still receiving numbers of complaints from applicants who have been dissatisfied for periods of several years with the decision taken in their case, and have never known that they had any right of appeal.

It may be argued that the onus is on the individual to know the law. However, by far the greatest number of complainants who bring their troubles with the Workmen's Compensation Board to this Office, lack education sufficient to cope with Statutes and laws. Many of them have difficulty in writing a letter, and Statutory provisions for appeals are beyond them. They are given a decision, and believe it, in many cases, to be final and binding.

Frequently, it is because of this lack of education that they are employed in manual labour or in other unskilled occupations where the accident risk is high.

Most of them cannot afford legal advice. It is my respectful submission that there should rest somewhere within the structure of the Workmen's Compensation Board the responsibility to ensure that the injured or sick workman, who applies for financial compensation for his injuries, or for treatment of his hurts, or for rehabilitation, or all of them, is made fully aware of the rights of appeal which the legislators of this Province have provided for him.

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* The Workmen's Compensation Act, Section 27
** The Ombudsman Act, Section 12(1)

I do believe that consideration might be given to some procedure brought about by legislation or regulation, which would create an obligation to inform the workman along the lines I have mentioned.

I would suggest that an applicant, whose case has been decided by the Board, could be provided with a written or printed explanation of the various procedures he may follow for reconsideration of his case, or to appeal it by whatever means are legally open to him.

It would be important, in my view, that such advice should also inform the applicant fully of all the possible consequences of such an appeal. He may not realize otherwise, that his compensation can not only be increased or held at its present level; it can also be decreased or eliminated.

I realize that there is a hint of threat in providing the applicant with knowledge of these alternatives. I believe the Board has had some reluctance to provide this information, fearing that it may be accused of trying to scare the applicant off. I can understand the Board's concern. This factor has concerned me as well for some time.

None the less, I am satisfied that a man has a right to know what he is up against, either good or bad, and if the legislators have seen fit to provide legislation giving the applicant a right of appeal, he should be so notified.

"Ignorance of the law is no excuse" should not prevail in an area where the educational level is predominantly lower than the average, as it is in this particular area.

When complaints are received in this Office and it is ascertained that the complainant is unaware of his rights for an appeal under Section 27 of The Workmen's Compensation Act, or that he has not had such an appeal, this Office undertakes to write him and notify him of his right of appeal and the various consequences of such an appeal. We invariably advise him to consult with his family physician before making a decision, for I have decided that this Office should not endeavor to advise him what steps to take.

Section 27 of The Workmen's Compensation Act does create some problems for my Office. I cannot undertake an investigation where a man has a right of appeal still available to him. On the other hand, if I were to suggest to him that he seek an appeal under Section 27, and the result was either a decrease or a total loss of his compensation, he would indeed feel that he had suffered a grave injustice at the hands of the Ombudsman.

I have also been concerned about the paucity of information which is supplied to an applicant when he is advised of the results of his application and the amount of the compensation awarded to him.

In cases which come before me, the applicant has not usually been told the extent of his disability or the percentage of disability which he has. He is not normally advised how this percentage was arrived at. He is merely told that he has been found to have a disability and the amount of compensation in dollars he will receive. If he gets a monthly pension, or a lump sum settlement, he is not told how such a decision was arrived at.

The most obvious questions which will arise in the mind of the applicant at once are: "How did they figure my percentage and what is it?" "Why did I get a lump sum instead of a monthly pension?"

I quote hereunder just such a letter as reecived by an applicant for compensation.

"(date)

(applicant's name and address)

Dear Sir:

Following your latest medical examination your claim has been reviewed.

The medical evidence shows you have a disability as a result of your accident of (date).

The compensation payable to you in a lump sum for this disability, as presently assessed is (amount) and we have pleasure in attaching hereto our cheque for this amount.

Yours truly,"

It should be noted also that this letter makes no reference to any right of appeal.

I do submit that there would be merit in considering a requirement that such information, as that asked in the questions above, be supplied to the applicant with the decision of the Board.

In this case the man who received this letter and the accompanying cheque came to the Office of the Ombudsman personally.

He was afraid to cash the cheque because it bore on it the words "FULL SETTLEMENT". He thought that by cashing the cheque he was in fact signing a quit claim. He was disabused of this idea.

I am of the view that the words "FULL SETTLEMENT" are misleading and create an air of finality. Such an impression should not be created where appeal procedures are still open to the applicant. It is my submission that consideration be given to removing these words from such cheques issued by the Board.

There is a former procedure which occurred from time to time and which concerned me when I first encountered it.

When a person applies for an appeal under Section 27 of The Workmen's Compensation Act, the Board presents a slate of doctors who are specialists in the field of the particular ailment or injury involved.

From this list of doctors, the applicant may select one doctor and the employer another. They usually jointly make the necessary medical investigations and there is provision for the selection of a third doctor if a problem arises. Quite early in my discussion with the Board, I pointed out that I had found instances where a doctor who had already examined the applicant or who had expressed an opinion of his medical condition, had been included on the slate of doctors for the appeal.

In one instance, the doctor who had previously reported adversely on a claim by an applicant for compensation had later inadvertently been placed on

the slate of doctors for appeal. He had then been selected by the *employer* for purposes of the appeal, having already delivered a medical verdict.

I hasten to state that there was general agreement with the Board that this practice was wrong and should cease. I am satisfied that it has been discontinued.

Nevertheless, despite the unanimity of opinion of the members of the Board and the Ombudsman, man is gathered to his fathers in due course and the memory of his works and words may not long survive him unless they become a matter of record.

I do feel that consideration should be given to some amendment to the Act or Regulation which would make any doctor who had previously dealt with the case ineligible to be included on the medical panel for appeals.

Some of the suggestions which I have put forward for consideration might be put into effect if The Administrative Procedures Act were made applicable to the Workmen's Compensation Board, at least to the extent necessary to cover these suggestions.

Alternatively, I suggest consideration be given to including some sections from The Administrative Procedures Act, or words of a similar intent, in The Workmen's Compensation Act. I would particularly consider the benefits to the applicant or appellant where the terms of such sections of The Administrative Procedures Act as Sections 5 and 8, would apply to The Workmen's Compensation Board.

It must be remembered that Section 10 of The Workmen's Compensation Act prevents appeals of the Board's decisions to the Courts.

The Board's hearings are held in private, and this quite understandably, considering the nature of the matters the Board must consider.

None the less, the public does not have access to these deliberations.

As mentioned before, a considerable portion of the applicants to the Board lack full grade school education, and what man does not understand he tends to mistrust and fear.

I have expressed the opinion that at this time applicants for compensation are not sufficiently advised of the reasons for decisions taken, or of their rights of appeal, and I think the Board might quite properly argue that there are no such requirements laid down by Statute. I would not disagree.

I am, however, in my daily work, keenly aware of the increasing complications and complexities of the plethora of laws, bylaws, rules, regulations, and edicts, and amendments thereto, which apply to all of us in our present system of society.

I believe it to be essential that those who serve the public and who are charged with the application of this host of rules and guidelines, be constantly vigilant to ensure that their full meaning, portent and consequences are made as clear as possible to those to whom they are being applied.

Such vigilance would be more easily maintained if the statutes themselves provided the requirement that such advice and knowledge be provided to those who come seeking some form of adjudication from Government appointed boards and tribunals.

The new legislation which was passed last year, and which resulted in subsidizing the lower levels of compensation, from Government funds, has proved extremely beneficial to a number of former complainants to this Office.

I referred last year to a man in his eighty-fourth year who was a veteran of World War I and served for thirteen years with the former Alberta Provincial Police. He was thrown from a horse in the course of his duties and some thirty or more years ago received a twenty-five per cent disability pension of $22.22 a month. The pension in his case has now been raised to $43.75 a month, almost double.

In one other case there was an increase in compensation from $32.50 to $131.25 a month as a result of the same legislation.

In a third case the pension was raised from $24.27 to $98.00 a month. There have been a number of others, but these few mentioned will illustrate the extremely beneficial impact of the new legislation.

These increases were in no way accountable to any inquiries carried out by the Ombudsman, nevertheless a number of complaints to the Ombudsman which could not have been rectified, have now been withdrawn by the original complainants.

General Comments

The question of persons detained in Alberta Mental Hospitals under the provisions of the Criminal Code, occupied some space in my two previous reports. These were cases in which the inmate was detained, either by Order of the Lieutenant-Governor, or by transfer from a Federal Penitentiary to an Alberta Mental Hospital. The complaints which I dealt with, arose from the lack of Federal Statutory provision for regular, independent reviews of the inmate's mental condition.

It seems unlikely that such problems will arise again due to amendments to the Criminal Code of Canada, which provide for the establishment of a Board of Review. It will be most encouraging to those who have expressed concern about such cases in the past, to know that upon the recommendation of the Acting Attorney General, Orders in Council had been prepared, naming the Members of the Board of Review, and the Orders in Council were approved in September, 1969. The amendments to the Criminal Code came into effect on October 1st, 1969, and the Board of Review held its first meeting on October 2nd, 1969, the following day.

The Alberta Mental Health Act, of course, provides the right of review at regular intervals, before an independent Board, for every person medically committed. The new procedures under the Criminal Code will provide similar regular reviews of each case, where the committal has been under the Criminal Code or other Federal Statute.

As I have now been in office for twenty-six months, I have been able to steadily increase my knowledge of the responsibilities and operations of various Departments and Agencies of Government.

These have included various Boards and Tribunals including those which may be said to be exercising a judicial or quasi-judicial function.

Indeed, my jurisdiction to deal with one particular Board on the merits of its decisions, has been challenged by a Minister, on the advice of the Solicitors of the Attorney General's Department. I have referred elsewhere in this report to this challenge, which is now under judicial review on the application of the Ombudsman.

In reviewing the considerable volume of complaints received from citizens of this Province, against various Boards and Tribunals exercising judicial or quasi-judicial functions, I have noted with some concern the widespread opinion, that because such a Board is appointed by Government, it is a creature of Government, and is unlikely to make decisions which may run contrary to Government policy.

I am, of course, aware that an appellant or respondent, who has received a decision adverse to his cause, may be inclined to find fault with the fairness of the decision. However, the type of complaint which I refer to, seems to go beyond that, and includes people who see little use in going before such a Tribunal for the reasons mentioned above.

I have tried to analyze the background for such viewpoint, and it at once becomes obvious that there are certain differences between the procedures before such Boards and Tribunals, and those before Courts of Law. The former are usually more informal and more flexible. The Members of the Boards have considerable discretion as to how the proceedings will be conducted as well.

I believe all of this was provided for quite deliberately, and with the excellent intent that the matters which are dealt with by these Boards, might be more readily settled without burdening the appellant or respondent with the delays and expense necessarily associated with action taken through the Courts.

Admirable as this intent may be, the old adage still applies that "Justice must not only be done, but must be seen to be done."

Last year I reported that the Chairman of one of such Boards had told me, that the Board was not required to give reasons for its decisions. In one case which I investigated, a number of persons had indicated their desire to be heard by a Board in an appeal to which they were opposed. They were notified in writing of the date of the hearing, and they attended the hearing. Just over one year later, when I concluded my investigation, they had not yet been notified by the Board of its decisions, and I am unaware that they have been notified since. The appellant was notified six days after the decision.

There is generally no appeal to the Courts from the decisions of such Boards exercising judicial or quasi-judicial functions, except on matters of law. The merits of the case are not normally subject to review by the Courts.

With these restrictions the requirement for a fair, open and impartial hearing becomes paramount in my view.

In my review, I could not help but return to that excellent piece of legislation, The Administrative Procedures Act.

I referred to it last year, and suggested consideration of its more widespread application. My experience during the past year has only served to confirm the views I previously expressed. I would submit that consideration might well be given to the application of The Administrative Procedures Act wherever feasible to the proceedings of all Tribunals, advisory, administrative or judicial.

Alternatively, I would submit that consideration be given to amending the enabling legislation under which such Boards and Tribunals operate, by the inclusion of certain sections of The Administrative Procedures Act, or Sections having a similar intent. These sections would tend to ensure a fair, impartial and full hearing, including the giving of reasons for the decision arrived at. It is my belief that the guiding principle in deciding the inclusion of such amendments, should be the attainment of natural justice.

There is one further feature of a number of Boards and Tribunals exercising judicial or quasi-judicial functions, which, I believe, may have much to do with the misconceptions about the independence of such Boards. I refer to the presence on these Boards, as actual members of the Boards, of senior Civil Servants. I have in mind one Board which I investigated where the Department of Government asked it to reconsider its decision. A Civil Servant employee of that Department was a member of the Board.

This particular senior Civil Servant, whose integrity is beyond question, and whose decision could in no wise be affected by outside influences, was nevertheless in my view, put in a situation in which a senior Civil Servant of the Government should not be placed.

One need only look at the situation from the point of view of a man who is appealing the decision of some arm of Government, Municipal or Provincial. He faces a Board of which one or more members are Civil Servants. The decision goes against him. I can say quite flatly from my own experience in this office, that you are not going to convince that man that the Board he faced was completely independent of Government influence.

I cannot escape the conclusion that the misconceptions which are held by an appreciable number of the complainants who come to me, and obviously by others as well, will not be entirely eliminated where Civil Servants act in a judicial capacity, on what is intended to be an independent Board or Tribunal. I would respectfully request consideration of these points which I have raised.

It is a pleasure to once again report the excellent co-operation I have received from most Departments and Agencies of the Government of this Province during the past reporting year. There are, quite understandably, some areas in which my approach has been regarded with less than enthusiasm. This is to be expected if I am to carry out the duties and obligations which I have undertaken. I can understand and appreciate these contrary views. I can only trust that I shall be regarded as fair and impartial.

We have, I believe, disposed of a large volume of complaints this year, and I attribute much of this efficiency to my staff. I am indeed fortunate in the loyalty and co-operation which I have received from all of them at all times. The responsibilities of this office are frequently demanding. The response has been willing and effective.

I shall be pleased to provide further information about any aspects of my work as may be desired by the Legislature.

GEO. B. McCLELLAN,
Ombudsman.

January 1, 1969.

Appendix I

GOVERNMENT DEPARTMENTS OR AGENCIES

1967

Dept. of Agriculture		
* 67-100-5	St. Mary's River Development	Rectified
Alberta Government Telephones		
67-260-1	Dismissal from service	Not Justified
Alberta Liquor Control Board		
67-320-1	Cancellation of Hotel License	Not Justified
Dept. of the Attorney General		
67-110-5	Lack of action criminal charges	Not Justified
110-9	Disposition of property	Abandoned
110-18	Removal of cattle from Pound	Rectified
* 110-21	Failure to answer correspondence	Rectified
Dept. of Education		
* 67-120-5	Non-refund of overpayment of pension contract	Rectified
Dept. of Highways & Transport		
67-140-5	Highway expropriation	Not Justified
140-7	Compensation for highway construction	Rectified
Dept. of Lands and Forests		
67-170-12	Purchase of homestead	Not Justified
Provincial Planning Board		
67-340-1	Compensation for expropriation of land for highway	Not Justified
Public Service Commission		
67-280-1	Protests classification of position by Public Service Commissioner	Not Justified

Workmen's Compensation Board

	67-300-3	Compensation claim	Not Justified
	300-6	Compensation claim	Not Justified
	300-14	Compensation claim	Abandoned
	300-10	Compensation claim	Not Justified
*	300-12	Compensation claim	Declined 12(1)(a)
	300-15	Compensation claim	Declined 12(1)(a)
	300-16	Compensation claim	Rectified
*	300-17	Compensation claim	Rectified
	300-18	Compensation claim	Declined 12(1)(a)
*	300-22	Medical treatment	Rectified

MISCELLANEOUS

Complaints Against Cities, Municipalities, Towns, Etc.

*	67-400-3	Expropriation of property	Discontinued

No Specific Complaint Made

	67-450-12	Unspecified	Transferred, See 67-110-21
	450-14	Complaints against numerous departments	Not Justified

APPENDIX II

GOVERNMENT DEPARTMENTS OR AGENCIES

1968

Dept. of Agriculture			
	68-100-1	Failure to pay for emergency livestock feed	Rectified
	100-3	Irrigation council approving Grazing Lease cancellation	Not Justified
	100-6	Water drainage difficulties	No Jurisdiction 11(1)
	100-8	License to divert water	Withdrawn
Alberta Government Telephones			
	68-260-6	Proposed telephone exchange	Not Justified
	260-8	Telephone discontinued	Not Justified
Alberta Liquor Control Board			
	68-320-1	Issuance of a tavern license	Not Justified
Dept. of the Attorney General			
	68-110-2	Court reporting system	Not Justified
	110-27	Police harassment	Discontinued 14(1)(b)—Death of complainant
	110-35	Enforcement Highway Traffic Act regulations within Municipality	Rectified
	110-37	Legal fees through Legal Aid	Abandoned
*	110-43	Forfeiture of bail moneys	Rectified
	110-54	Ownership of minerals	Not Justified
	110-56	Prisoner requests oral surgery and dentures	Rectified
*	110-58	Retention of money submitted to Government in error	Rectified
Dept. of Education			
	68-120-9	Refusal of school assistance grant	Declined 14(1)(a)
	120-12	Educational opportunity	Not Justified

Dept. of Public Health

	68-130-1	Alberta Health Plan	Withdrawn
	130-7	Delay of payment under Alberta Health Plan	No Jurisdiction 11(1)
	130-14	Employment dismissal	Not Justified
	130-15	Dismissal from Public Service	Not Justified
	130-17	Responsibility for moving expenses	Not Justified
*	130-22	Responsibility for medical services supplied	Rectified
	130-24	Confinement of relative in mental hospital	Discontinued—Relative deceased
	130-30	Professional remuneration	Withdrawn
	130-36	Detention in mental institution	Withdrawn
	130-38	Wrongfully admitted and detained in mental institution	Not Justified
	130-39	Dismissal from Public Service	Not Justified

Dept. of Highways & Transport

	68-140-7	Property development refusal	Rectified
	140-8	Restricted business development on property adjacent to highway	Not Justified
*	140-15	Extent of recovery in a motor vehicle action	No Jurisdiction 11(1)
	140-23	Refusal to reinstate motor vehicle operator's license	Not Justified
	140-25	Condition of highway	Not Justified
	140-26	Refused reinstatement of driver's license	Not Justified
	140-27	Inconsistencies in the Motor Vehicle Safety Inspection Program	Rectified
	140-28	Underpayment for highway fill	Not Justified
	140-29	Weed control program	Rectified
	140-30	Claim denied by Motor Vehicle Accident Claims Fund	Not Justified

Dept. of Industry & Tourism

*	68-150-1	Cancellation of building funds by Order-in-Council	Not Justified

Dept. of Labour

	68-160-1	Inquiry by Board of Industrial Relations	Not Justified

Dept. of Lands and Forests

*	68-170-2	Infraction under The Forests Act—1961	Rectified
	170-5	Fees on homestead lease	Not Justified
	170-6	Cancellation of grazing association	Not Justified
	170-9	Salary dispute with temporary emergency helper	Rectified

Dept. of Lands and Forests (Continued)			
	170-10	Restricted use of campsite during winter	Not Justified
	170-11	Terms of homestead sale	Not Justified
	170-12	Dispute over land purchase	Abandoned
*	170-14	Cancellation of Government grazing lease	Rectified
Dept. of Mines & Minerals			
	68-180-3	Surface Reclamation Council	Not Justified
Dept. of Social Development			
	68-210-5	Numerous trivial issues	Declined 14(1)(a)
*	210-18	Medical bills and old age security	Rectified
	210-19	Non-payment hospital costs	Abandoned
	210-21	Insufficient financial assistance	Not Justified
	210-22	Denial of oral agreement	Not Justified
	210-23	Financial assistance denied	Not Justified
	210-24	Reduction of social allowances	Not Justified
	210-25	Landlord tenancy dispute	Withdrawn
Public Trustee			
	68-330-8	Mishandled estate	Not Justified
	330-9	Settlement of an estate	Not Justified
	330-12	Administration of mental patient's estate	Discontinued
	330-10	Landlord tenancy dispute	Withdrawn
Dept. of Public Works			
	68-220-5	Accident with Government vehicle	Abandoned
*	220-6	Sewage disposal problem	Rectified
Workmen's Compensation Board			
	68-300-3	Pension insufficient due to increased cost of living	Discontinued—Complainant deceased
	300-4	Compensation stopped prematurely	Declined 12(1)(a)
	300-6	Subrogation rights	Not Justified
	300-8	Pension inadequate for injury	Not Justified
	300-14	Pension inadequate for injury	Not Justified
	300-18	Delay of pension payment	Abandoned

Workmen's Compensation Board (Continued)

	300-20	Compensation stopped prematurely	Rectified
	300-22	Pension insufficient due to increased cost of living	Not Justified
*	300-27	Claim for compensation rejected	Rectified
	300-30	Claim for compensation rejected	Declined 12(1)(a)
	300-31	Pension insufficient due to increased cost of living	Not Justified
	300-36	Claim for compensation rejected	Declined 12(1)(a)
	300-56	No decision on acceptability of claim	Not Justified
	300-57	Compensation stopped prematurely	Not Justified
	300-61	Medical treatment insufficient	Abandoned
	300-63	Compensation stopped prematurely	Declined 12(1)(a)
	300-65	Compensation stopped prematurely	Declined 12(1)(a)
*	300-68	Pension insufficient due to increased cost of living	Rectified
	300-71	Pension inadequate for injury	Declined 12(1)(a)
	68-300-72	Claim for compensation rejected	Declined 12(1)(a)
	300-73	Compensation stopped prematurely	Declined 12(1)(a)
	300-74	Not specific	Declined 12(1)(a)
	300-75	Pension inadequate for injury	Declined 12(1)(a)
*	300-76	Collection procedure after overpayment of pension	Not Justified
	300-77	Compensation stopped prematurely	Declined 12(1)(a)

MISCELLANEOUS

Complaints Against Cities, Municipalities, Towns, Etc.

68-400-3	Payment refused after services rendered	Not Justified
400-26	Expropriation proceeding by a town	No Jurisdiction 11(1)

No Specific Complaint Made

68-450-9	Expropriation Procedures Act	Declined 14(1)(a)
450-14	Not specific	Abandoned

Request for Assistance—No Complaint Involved

68-470-23	Employment regulations	No Jurisdiction 11(1)

APPENDIX III

GOVERNMENT DEPARTMENTS OR AGENCIES

1969

Dept. of Agriculture		(6)	
69-100-1	Application to purchase land refused by A.R.D.A.		Not Justified
100-2	Alberta Farm Purchase Board Agreement		Investigation
100-3	Damage to land by flooding		Not Justified
100-4	Land leveling program		Investigation
100-5	Employment refused after probationary year		Not Justified
100-7	Drainage ditch		Investigation
Alberta Freight Bureau		(1)	
69-360-1	Property damaged by movers		No Jurisdiction 11(1)
Alberta Government Telephones		(8)	
69-260-1	Employment difficulties		Rectified
* 260-2	Application for employment		Abandoned
* 260-3	Telephone disconnected		Not Justified
260-4	Complaints against A.G.T.—General		Investigation
260-5	Property damage claim		Discontinued
* 260-6	Telephone disconnected unjustly		Rectified
260-7	Incorrect billing by A.G.T.		Investigation
260-8	Separation pay and benefits		Declined 14(2)(a)
Alberta Health Care Insurance Commission		(2)	
69-370-1	Premium structure		Investigation
370-2	Coverage under A.H.C.I.C.		Investigation
Alberta Liquor Control Board		(3)	
* 69-320-1	Cancellation of license		Not Justified
320-2	Dining lounge license refused		Abandoned
320-3	Parking at licensed premises		No Jurisdiction 11(1)
Alberta Securities Commission		(1)	
69-290-1	An investment certificate		Investigation

Dept. of the Attorney General		(43)	
69-110-1	Mistreatment by police		Declined 12(1)
110-2	Refusal to commence criminal prosecution		No Jurisdiction 11(1)
110-3	Numerous issues relating to criminal charge		No Jurisdiction 11(1)
110-4	Informant's award refused		Declined 14(1)
110-5	Injury to a prison inmate		Discontinued
110-6	Several issues relating to criminal charge		Discontinued
110-7	Review procedure		No Jurisdiction 11(1)
110-8	Prisoner in gaol requests assistance in obtaining eyeglasses		Discontinued
110-9	Legal Aid refused for criminal appeal		Investigation
* 110-10	Omnibus issues raised by prisoner		Rectified
110-11	Treatment while confined at institution		Investigation
110-12	Medical attention for inmate at goal		Not Justified
110-13	Parole refused to prison inmate		No Jurisdiction 11(1)
* 110-14	Refusal to release court exhibits after trial		Rectified
110-15	Legal Aid refused		No Jurisdiction 11(1)
110-16	Failure to forward outstanding charge to other jurisdiction		No Jurisdiction 11(1)
110-17	Treatment at Provincial Gaol		Discontinued
110-18	Tenders invited on house		Not Justified
110-19	Detention in gaol		Not Justified
110-20	Criminal investigation		Investigation
110-21	Return of court exhibits		Investigation
110-22	Prison conditions		Rectified
69-110-23	Traffic ticket		No Jurisdiction 11(1)
110-24	Unsatisfactory medical attention		Investigation
110-25	Treatment of prisoner at gaol		Not Justified
110-26	Improper gaol confinement		No Jurisdiction 11(1)
110-27	Interrogation procedure by police		Investigation
110-28	Court transcripts and Legal Aid		Rectified
* 110-29	Prisoner refused free dental surgery		Rectified
110-30	Prison conditions		Investigation
110-31	Prison inmate refused oral surgery		Not Justified
110-32	Conduct of employee		Declined 12(1)(a)
110-33	A Sheriff's sale		Investigation
110-34	Validity of Sheriff's seizure and sale		Not Justified

Dept. of the Attorney General (Continued)

110-35	Salary discrimination	No Jurisdiction 11(1)
110-36	Investigation following fatal accident	Investigation
110-37	Not specific	Investigation
110-38	Assistance upon release from gaol	Investigation
110-39	Gaol conditions	Investigation
110-40	Prisoner's personal property missing	Investigation
110-41	Dental service for prison inmate	Investigation
110-42	Dental treatment for prison inmate	Investigation
110-43	Crown Prosecutor's action in criminal appeal proceeding	No Jurisdiction 12(1)(b)

Dept. of Education (14)

69-120-1	Financial assistance for student refused	Withdrawn
120-2	Employment application rejected	Declined 14(1)(b)
120-3	Refusal to renew interim teaching certificate	Not Justified
120-4	Student loan	Abandoned
120-5	Teacher qualification	Investigation
120-6	Student application for financial assistance	Declined 12(1)(a)
120-7	School curriculum	Investigation
120-8	Student financial assistance	No Jurisdiction 11(1)
120-9	Student loan rejected	No Jurisdiction 11(1)
69-120-10	Taxes for new centralized school	No Jurisdiction 11(1)
120-11	Rejection of application for certificate to teach kindergarten	Investigation
120-12	Boarding allowance refused	Investigation
120-13	Educational grants	Rectified
120-14	Rejection of application for correspondence course	Investigation

Dept. of Public Health (51)

69-130-1	Commencement date of contract under Alberta Health Plan	Investigation
130-2	Collection procedure of Alberta Health Plan	Rectified
* 130-3	Position taken by Hospitals Division in civil action	Investigation
130-4	Conduct of hospital staff	Declined 14(2)(b)(ii)
130-5	Air pollution	Discontinued
130-6	Medical treatment	Declined 14(2)(a)
130-7	Delay in refunding overpayment	Rectified before investigation
130-8	Detention in mental institution	Not Justified

Dept. of Public Health (Continued)

*	130-9	Coverage under Alberta Health Plan	Not Justified
	130-10	Alberta Health Plan coverage	Abandoned
	130-11	Mistreatment of child in Provincial Training School	Abandoned
	130-12	Detention at mental hospital	Investigation
	130-13	Detention at mental hospital	Not Justified
	130-14	Payment procedure of Alberta Health Plan	Investigation
	130-15	Detention in mental hospital	Declined 14(1)(b)
	130-16	Detention at mental institution	Investigation
	130-17	Refund due from Alberta Health Plan	Not Justified
	130-18	Hospital records	Abandoned
	130-19	Detention in mental hospital	Not Justified
	130-20	Required to resign from staff of Alberta Hospital	Not Justified
	130-21	Out-of-province hospital benefits	Investigation
*	130-22	Alberta Health Plan Contract	Rectified
	130-23	Alberta Health Plan Contract	Not Justified
	130-24	Detention in mental institution	Not Justified
	69-130-25	Detention at mental institution	Investigation
	130-26	Alberta Medicare Program	No Jurisdiction 11(1)
	130-27	Employment refused	Investigation
	130-28	Detention in mental institution	Not Justified
	130-29	Detained at mental institution	Not Justified
	130-30	Nurse's Aide training	Investigation
	130-31	Refusal to recognize group	No Jurisdiction 11(1)
	130-32	Compulsory aspect of Medicare	No Jurisdiction 11(1)
	130-33	Detention of mental patient	Rectified
	130-34	Compulsory aspect of Medicare	No Jurisdiction 11(1)
	130-35	Employment refused	Investigation
	130-36	Premium ratio for Medicare	No Jurisdiction 11(1)
	130-37	Confinement in mental institution	Not Justified
	130-38	Treatment of patients in public hospital	Abandoned
	130-39	Birth Certificate	Rectified
	130-40	Birth Certificate	Investigation
	130-41	Alberta School Hospital's rejection of admission application	Investigation
*	130-42	Hospital conditions	Discontinued

Dept. of Public Health (Continued)

130-43	Conditions at an Auxiliary Hospital	Investigation
130-45	Delay in refunding overpayment	Discontinued
130-46	Alberta Health Plan	Investigation
130-47	Medical treatment at Government institution	Investigation
130-48	Extent of responsibility for medical statements	Investigation
130-49	Termination of employment	Investigation
130-50	Detention in mental institution	Investigation
130-51	Confinement in mental institution	Investigation
130-52	Prolonged incarceration at Alberta Hospital	Abandoned

Dept. of Highways & Transport (36)

69-140-1	Denial of responsibility to maintain bridge	Investigation
140-2	Application to Motor Vehicle Accident Claims Fund rejected	Investigation
69-140-3	Expiration of operator's license	Declined 14(1)(a)
* 140-4	Termination of employment	Not Justified
140-5	Tests relating to qualifications for operator's license	Declined—Unsigned
140-6	Motor vehicle insurance	No Jurisdiction 11(1)
140-7	Quality of a specific highway	Not Justified
140-8	License procedure	Not Justified
140-9	Operator's license refused	Investigation
140-10	Condition of a specific highway	Not Justified
140-11	Purchase of property	Investigation
140-12	Expropriation	Not Justified
140-14	Application procedure by Motor Vehicle Accident Claims Fund officials	Discontinued
140-15	Motor Vehicle Claims Fund collection procedure	No Jurisdiction 11(1)
140-16	Highway signs	Rectified
140-17	Conditions for reinstatement of operator's license	Investigation
140-18	Assistance under Motor Vehicle Claims Fund	Investigation
140-19	Proposed bridge construction	Not Justified
140-20	Motor vehicle operator's license	Rectified
140-21	Reinstatement of driver's license	Not Justified
140-22	Suspension of motor vehicle operator's license	Investigation
140-23	Public service operator's license refused	Not Justified

Dept. of Highways & Transport (Continued)

140-24	Financial responsibility condition for motor vehicle operator's license	No Jurisdiction 11(1)
140-25	Downgrading of position classification	Investigation
140-26	Fees for motor vehicle license	No Jurisdiction 11(1)
140-27	Reinstatement of vehicle operator's license	Declined 14(1)(a)
140-28	Negotiations with Motor Vehicle Accident Claims Fund	Discontinued
140-29	Motor vehicle testing program	Not Justified
140-30	Extent of coverage by Motor Vehicle Accident Claims Fund	Investigation
140-31	Refusal to construct farm access to highway	Investigation
140-32	Reinstatement of operator's license	Investigation
140-33	Highway causing flooding to private land	Investigation
140-34	Promotion transfer application rejected	Investigation
140-35	Suspension of license	Investigation
140-36	Reinstatement of operator's license	Investigation
140-37	Land expropriated for service road	Declined 12(1)(a)

Dept. of Industry & Tourism (10)

69-150-1	Licensing procedure	Not Justified
* 150-2	Land agreement with Alberta Commercial Corporation	Rectified
150-3	Amendments to licensing procedure	Not Justified
150-4	Transactions with Marketing Services Limited	Investigation
150-5	Co-op refused to submit statements	Investigation
150-6	Commercial agent license requirement	Not Justified
150-7	Interference with Co-op	Investigation
150-8	Court action Rural Electric Act	No Jurisdiction 11(1)
150-9	Lack of promotion of Alberta flag	No Jurisdiction 11(1)
150-10	Application for business license refused	Not Justified

Dept. of Labour (10)

69-160-1	Trade qualifications	Not Justified
160-2	Certification procedure for tradesmen	Discontinued
160-3	Investigation by Board of Industrial Relations	Rectified
160-4	Investigation by Board of Industrial Relations	Rectified
160-6	Decision of Industrial Relations Board	Investigation
160-7	Lack of Trade Certificate	Declined 14(1)(a)

Dept. of Labour (Continued)

	160-8	Decision of Board of Industrial Relations	Investigation
	160-9	Investigation by Board of Industrial Relations	Investigation
	160-10	Job restrictions to youth	Investigation
	160-11	Investigation by Board of Industrial Relations	Investigation

Dept. of Lands and Forests (6)

	69-170-1	Termination of employment	Not Justified
	170-2	Proposed purchase of Crown land	Declined 14(1)(a)
*	170-3	Rejection of claim against Hunter's Relief Fund	Rectified
*	170-4	Trapline license suspension	Rectified
	170-5	Big game regulations	No Jurisdiction 11(1)
	170-6	Application to purchase land refused by A.R.D.A.	No Jurisdiction 11(1)

Dept. of Mines and Minerals (3)

	69-180-1	Oil lease rights and rentals	No Jurisdiction 11(1)
	180-2	Certificate issued by Surface Reclamation Council	Investigation
	180-3	Inspection following damage to well	Investigation

Dept. of Municipal Affairs (12)

	69-190-1	Land tax assessment	Declined 12(1)(a)
*	190-2	Homeowner's tax discount	Not Justified
	190-3	Homeowner's tax discount	No Jurisdiction 11(1)
	190-4	Tax notice	Not Justified
	190-5	Property tax assessment	Investigation
	190-6	Property tax assessment	Investigation
	190-7	Application for rehearing before Alberta Assessment Appeal Board	Investigation
	190-8	Property taxes	Investigation
	190-9	Field service inspection	Investigation
	190-10	Decision of Provincial Planning Board	Investigation
*	190-11	Property tax assessment	Rectified
	190-12	Property tax assessment	Investigation

Dept. of Social Development (39)

	69-210-1	Inadequate financial assistance	Not Justified
	210-2	Child custody interferences	Abandoned

Dept. of Social Development (Continued)

210-3	Rental account for premises used by welfare recipients	Not Justified
210-4	Additional Social Allowance refused	Not Justified
* 210-5	Financial assistance ceased	Rectified
210-6	Content of a Government Registration Form	Investigation
210-7	Social Allowance stopped	Abandoned
210-8	Old Age Assistance	No Jurisdiction 11(1)
210-9	Recovery proceedings	Investigation
210-10	Child custody	Declined 12(1)
69-210-11	Social Allowance refused	Declined 14(1)(a)
210-12	Apprehension of children	Declined 12(1)(a)
210-13	Release of funds for child deposited by putative father	Rectified
210-14	Apprehension of children	Declined 14(1)
210-15	Employees as Court witnesses	No Jurisdiction 11(1)
210-16	Social Allowance assistance	Not Justified
210-17	Social Allowance assistance	Not Justified
210-18	Disability Allowance	Discontinued
210-19	Foster parent difficulties	Discontinued
210-20	Apprehension of children	Not Justified
210-21	Social Allowance assistance	Investigation
210-22	Social Allowance assistance	Investigation
210-23	Insufficient welfare	Not Justified
210-24	Non-support of illegitimate child	Investigation
210-25	Difficulties following unsuccessful child adoption	Withdrawn
210-26	Child wardship	Investigation
210-27	Child custody situation	Investigation
210-28	Additional benefits requested	Withdrawn
210-29	Social Allowance assistance	Investigation
210-30	Omnibus complaint	Investigation
210-31	Social Allowance assistance	Investigation
210-32	Discrimination against hippies	Withdrawn
210-33	Denial of Social Allowance	Investigation
210-34	Communications with putative father	Not Justified
210-35	Public assistance refused	Investigation
210-36	Child adoption	Rectified

Dept. of Social Development (Continued)			
	210-37	Adoption application	Investigation
	210-38	Social Allowances	Investigation
	210-39	Social Allowance assistance	Investigation
Oil & Gas Conservation Board		(1)	
	69-310-1	Danger from gas escaping in gas producing area	Investigation
Provincial Secretary		(3)	
	69-200-1	Inquiry by Fire Commissioner's Office	Abandoned
*	200-2	Refusal to issue insurance agent's license	Rectified
	200-3	Similarity of registered company names	Investigation
Provincial Treasurer		(3)	
	69-250-1	A loan by one of the Treasury Branches	No Jurisdiction 11(1)
	250-2	Expropriation involving Alberta Resources Railway	Rectified
	250-3	Overtime by Treasury Branches	Declined 14(2)(iii)
Public Service Commission		(4)	
	69-280-1	Delay in reclassification decision	Investigation
	280-2	Classification Appeal Board decision	Investigation
	280-3	Employment at N.A.I.T.	Abandoned
	280-4	Rejection of employment application	Investigation
Public Service Pension Board		(7)	
	69-350-1	Unsatisfactory monthly pension	Not Justified
	350-2	Pension rights of widow of former Government employee	Not Justified
	350-3	Failure to answer correspondence	Not Justified
	350-4	Pension transfer regulations	No Jurisdiction 11(1)
	350-5	Cost of living factor for pensions	No Jurisdiction 11(1)
*	350-6	Payment of pension	Rectified
	350-7	Calculation of pension	Investigation
Public Trustee		(13)	
	69-330-1	Property seizure	Abandoned
*	69-330-2	Administration of mental patient's affairs	Not Justified

Public Trustee (Continued)

	330-3	Administration of mental patient's affairs	Not Justified
	330-4	Administration of infant's trust fund	Declined 12(1)(a)
*	330-5	Estate of mental patient	Not Justified
*	330-6	Administration of trust for infants	Investigation
	330-7	Failure to answer correspondence	Abandoned
	330-8	Mental incompetent's affairs	Withdrawn
	330-9	Distribution of estate	Not Justified
	330-10	Administration of estate	Declined 14(2)(b)
	330-11	Administration of mental patient's affairs	Not Justified
	330-12	Authority to administer affairs of mental incompetent	Investigation
	330-13	Administration of estate (deceased)	Investigation

Public Utilities Board (5)

	69-270-1	Farmer's dispute with oil company	Investigation
	270-2	Extent of compensation awarded	Investigation
	270-3	Decision re house expropriation	No Jurisdiction 11(1)
	270-4	Land expropriation decision	Investigation
	270-5	Pipeline expropriation	Investigation

Dept. of Public Works (3)

	69-220-1	Employment dismissal	Investigation
	220-2	Employee demoted	Investigation
	220-3	Inspection of a building project	Declined 14(1)(a)

Workmen's Compensation Board (84)

	69-300-1	Compensation stopped prematurely	Declined 12(1)(a)
	69-300-2	Pension inadequate for injury	Declined 12(1)(a)
	300-3	Compensation stopped prematurely	Declined 12(1)(a)
	300-4	Claim for compensation rejected	Declined 12(1)(a)
	300-5	Claim for compensation rejected	Rectified
*	300-6	Pension inadequate for injury	Not Justified
	300-7	Claim for compensation rejected	Declined 12(1)(a)
	300-8	Compensation stopped prematurely	Declined 12(1)(a)
	300-9	Pension insufficient due to cost of living	Not Justified
	300-10	Claim for compensation rejected	Rectified

Workmen's Compensation Board (Continued)

	300-11	Claim for compensation rejected	Not Justified
	300-12	Compensation stopped prematurely	Rectified
	300-13	Subrogation rights	Investigation
	300-14	Compensation stopped prematurely	Investigation
	300-15	Inadequate pension for injury	Abandoned
	300-16	Compensation stopped prematurely	Declined 12(1)(a)
	300-17	Whether awarded pension has been paid	Not Justified
	300-18	Claim rejected	Investigation
*	300-19	Continued compensation refused	Declined 12(1)(a)
	300-20	Pension inadequate for injury	Investigation
	300-21	Pension inadequate for injury	Not Justified
	300-22	Compensation stopped prematurely	Investigation
	300-23	Claim for compensation rejected	Not Justified
	300-24	Claim for compensation from injury in 1944	Abandoned
	300-25	Compensation claim rejected	Not Justified
	300-26	Compensation inadequate	Investigation
	300-27	Inadequate compensation	Not Justified
	300-28	Unpaid medical expenses	Rectified
	300-29	Compensation inadequate	Not Justified
	300-30	Medical procedure	Not Justified
*	300-31	Inadequate compensation	No Jurisdiction 11(1)
	300-32	Compensation stopped prematurely	Declined 12(1)(a)
	300-33	Inadequate pension	No Jurisdiction 11(1)
	300-34	Decision delay following formal review	Investigation
	69-300-35	Claim rejected	Investigation
	300-36	Compensation stopped prematurely	Investigation
	300-37	Compensation stopped prematurely	Not Justified
	300-38	Omnibus issues regarding compensation benefits	Investigation
	300-39	Widow's pension refund	Not Justified
	300-40	Compensation refused	Declined 12(1)(a)
	300-41	Compensation rejected for subsequent medical attention	Investigation
	300-42	Compensation inadequate for injury	Declined 12(1)(a)
	300-43	Extent of pension	Declined 12(1)(a)
	300-44	Claim rejected	Not Justified

Workmen's Compensation Board (Continued)

300-45	Inadequate compensation	Declined 12(1)(a)
300-46	Claim rejected	Investigation
300-47	Inadequate compensation	Investigation
300-48	Inadequate compensation	Declined 12(1)(a)
300-49	Inadequate compensation	Declined 12(1)(a)
300-50	Compensation stopped prematurely	Declined 12(1)(a)
300-51	Inadequate compensation	Declined 12(1)(a)
300-52	Compensation stopped prematurely	Investigation
300-53	Compensation benefits	Declined 12(1)(a)
300-54	Termination of employment and back pay	Not Justified
300-55	Inadequate compensation	Declined 12(1)(a)
300-56	Inadequate compensation	Investigation
300-57	Extent of compensation	Investigation
300-58	Compensation stopped prematurely	Investigation
300-59	Denied widow's pension	Investigation
300-60	Inadequate pension	Investigation
300-61	Inadequate compensation	Investigation
300-62	Compensation refused	Investigation
300-63	Inadequate compensation	Investigation
300-64	Claim rejected	Investigation
300-65	Compensation inadequate for injury	Declined 12(1)(a)
300-66	Compensation refused	Declined 12(1)(a)
300-67	Rejection of claim	Investigation
69-300-68	Inadequate compensation	Declined 12(1)(a)
300-69	Inadequate compensation	Declined 12(1)(a)
300-70	Inadequate compensation	Declined 12(1)(a)
300-71	Delay of decision	Declined 12(1)(a)
300-72	Cost of living amendment to pensions	Investigation
300-73	Inadequate compensation	Investigation
300-74	Compensation insufficient	Investigation
300-75	Compensation insufficient	Investigation
300-76	Inadequate compensation	Investigation
300-77	Commutation of pension refused	Investigation
300-78	Inadequate compensation	Investigation

Workmen's Compensation Board (Continued)

300-79	Inadequate compensation	Investigation
300-80	Inadequate compensation	Investigation
300-81	Compensation stopped prematurely	Investigation
300-82	Inadequate compensation	Declined 12(1)(a)
300-83	Inadequate compensation	Investigation
300-84	Rejection of claim	Investigation

MISCELLANEOUS

Complaints Against Cities, Municipalities, Towns, Etc. (33)

69-400-1	Property tax assessment	No Jurisdiction 11(1)
400-2	Town's utility system	No Jurisdiction 11(1)
400-3	Vacation pay to county employee	No Jurisdiction 11(1)
400-4	City's action on fluoridation	No Jurisdiction 11(1)
400-5	Local Governments disagree over suitable location of senior citizen's home	No Jurisdiction 11(1)
400-6	Local school administration	No Jurisdiction 11(1)
400-7	Interference by city employee	No Jurisdiction 11(1)
400-8	Termination of employment at hospital	No Jurisdiction 11(1)
* 400-9	By-law cancelling property taxes	Not Justified
400-10	Management of a summer village	No Jurisdiction 11(1)
400-11	Land expropriation	No Jurisdiction 11(1)
400-12	Employment with local School Board	No Jurisdiction 11(1)
400-13	Petition presented to a City Council	No Jurisdiction 11(1)
400-14	River bank erosion endangers home	No Jurisdiction 11(1)
400-15	Urban Renewal Program	No Jurisdiction 11(1)
400-16	Municipal Water Tax	No Jurisdiction 11(1)
400-17	City planning	No Jurisdiction 11(1)
400-18	Termination of employment	No Jurisdiction 11(1)
400-19	Unpaid business tax	No Jurisdiction 11(1)
400-20	Culvert installation	No Jurisdiction 11(1)
400-21	Rejection of employment	No Jurisdiction 11(1)
400-22	Termination of employment with local School Division	No Jurisdiction 11(1)

Complaints Against Cities, Municipalities, Towns, Etc. (Continued)

400-23	Requests County School Records checked	No Jurisdiction 11(1)
400-24	Dissatisfied with Town Police investigation	Investigation
400-25	No notice to property owner affected by city by-law	No Jurisdiction 11(1)
400-26	County construction damages private property	No Jurisdiction 11(1)
400-27	Interfering City Welfare officials	No Jurisdiction 11(1)
400-28	Property tax assessment	No Jurisdiction 11(1)
400-29	School bus system	No Jurisdiction 11(1)
400-30	Land sale	No Jurisdiction 11(1)
400-31	Land use within a town	No Jurisdiction 11(1)
400-32	Supervision of a cemetery by a city	Investigation
400-33	Damage claim against a Municipal District	Investigation

Complaints Against Federal Departments or Agencies (24)

69-410-1	Income Tax dispute	No Jurisdiction 11(1)
410-2	Death of a member of Armed Forces	No Jurisdiction 11(1)
410-3	Retention of complainant's funds	Declined 11(1)
410-4	Unemployment Insurance Commission coverage	No Jurisdiction 11(1)
410-5	Income Tax assessment	No Jurisdiction 11(1)
410-6	Bills of Exchange Act	No Jurisdiction 11(1)
410-7	Income Tax dispute	No Jurisdiction 11(1)
410-8	National Parole Board	No Jurisdiction 11(1)
410-9	Deportation order	No Jurisdiction 11(1)
410-10	Unemployment Insurance Commission	No Jurisdiction 11(1)
410-11	R.C.M.P. Pension	No Jurisdiction 11(1)
410-12	Income Tax matter	No Jurisdiction 11(1)
410-13	War Pension	No Jurisdiction 11(1)
410-14	Expropriation of land	No Jurisdiction 11(1)
410-15	Central Mortgage and Housing Corporation	No Jurisdiction 11(1)
410-16	Department of Veteran Affairs Pension award	No Jurisdiction 11(1)
410-17	War Pension cheques	No Jurisdiction 11(1)
410-18	Government Annuities	No Jurisdiction 11(1)
410-19	General retroactive pay increase denied	No Jurisdiction 11(1)
410-20	Income Tax Act	No Jurisdiction 11(1)
410-21	Proposed transfer of patient in Mental Hospital to prison	No Jurisdiction 11(1)

Complaints Against Federal Departments or Agencies (Continued)

410-22	Parole Board	No Jurisdiction 11(1)
410-23	Immigration application	Investigation
410-24	Income Tax exemption	No Jurisdiction 11(1)

Private Matter (114)

69-420-1	Unpaid debts of an estate	No Jurisdiction 11(1)
420-2	Qualifications rejected by professional association	No Jurisdiction 11(1)
420-3	Professional status restricted	No Jurisdiction 11(1)
420-4	Domestic relation difficulties	No Jurisdiction 11(1)
420-5	Dissatisfaction with lawyer	No Jurisdiction 11(1)
420-6	Marital dispute	No Jurisdiction 11(1)
69-420-7	Medical coverage under non-government plan	No Jurisdiction 11(1)
420-8	Prisoner requests assistance for return of personal property	No Jurisdiction 11(1)
420-9	Financial difficulties	No Jurisdiction 11(1)
420-10	Disposition of family farm	No Jurisdiction 11(1)
420-11	Consignor disputes with auctioneer	No Jurisdiction 11(1)
420-12	Collecting a private debt	No Jurisdiction 11(1)
420-13	Alimony enforcement	No Jurisdiction 11(1)
420-14	Fire destruction of property	No Jurisdiction 11(1)
420-15	Abusive creditors	No Jurisdiction 11(1)
420-16	Child custody dispute	No Jurisdiction 11(1)
420-17	Credit arrangements with oil company	No Jurisdiction 11(1)
420-18	Financial difficulties	Investigation
420-19	Collection difficulties	No Jurisdiction 11(1)
420-20	Rising rent costs	No Jurisdiction 11(1)
420-21	Alimony rights	No Jurisdiction 11(1)
420-22	Custody of child	No Jurisdiction 11(1)
420-23	Municipal expropriation	Withdrawn
420-24	Employment dispute with School Board	No Jurisdiction 11(1)
420-25	Numerous complaints	No Jurisdiction 11(1)
420-26	Alimony enforcement proceedings	No Jurisdiction 11(1)
420-27	Charges of non-government owned utility service	No Jurisdiction 11(1)
420-28	Legal status of a sign to prevent home solicitations	No Jurisdiction 11(1)
420-29	Decision of local School Board	Abandoned
420-30	Property settlement	No Jurisdiction 11(1)

Private Matter (Continued)

420-31	Property settlement	No Jurisdiction 11(1)
420-32	Private investment	No Jurisdiction 11(1)
420-33	Water drainage	No Jurisdiction 11(1)
420-34	Mortgage	No Jurisdiction 11(1)
420-35	Payments by tenant	No Jurisdiction 11(1)
* 420-36	Financial difficulties	No Jurisdiction 11(1)
420-37	Terms of rental agreement	No Jurisdiction 11(1)
420-38	Sewer installation	Discontinued
420-39	Validity of Agreement for Sale	No Jurisdiction 11(1)
69-420-40	Failure to meet payments on purchase of land	No Jurisdiction 11(1)
420-41	Non-payment of debt	No Jurisdiction 11(1)
420-42	Motor vehicle purchase	No Jurisdiction 11(1)
420-43	Employment problems	No Jurisdiction 11(1)
420-44	Distribution of estate	No Jurisdiction 11(1)
420-45	Motor vehicle purchase	No Jurisdiction 11(1)
420-46	Home rental agreement	Investigation
420-47	Medical treatment	No Jurisdiction 11(1)
420-48	Business investment	No Jurisdiction 11(1)
420-49	Dissatisfaction with lawyer	No Jurisdiction 11(1)
420-50	Employment difficulties for ex-convict	No Jurisdiction 11(1)
420-52	House painting contract	No Jurisdiction 11(1)
420-53	Distribution of a family estate	No Jurisdiction 11(1)
420-54	An estate dispute	No Jurisdiction 11(1)
420-55	Motor vehicle insurance rates	Withdrawn
420-56	Motor vehicle insurance rates	No Jurisdiction 11(1)
420-57	Responsibility for highway accident	No Jurisdiction 11(1)
420-58	Sale of house	No Jurisdiction 11(1)
420-59	Termination of employment	No Jurisdiction 11(1)
420-60	Numerous personal difficulties	No Jurisdiction 11(1)
420-61	Mother being sued for hospital bill incurred by mentally deranged adult son	No Jurisdiction 11(1)
420-62	Garnishee court proceedings in civil action	No Jurisdiction 11(1)
420-63	Alberta Blue Cross Company	Rectified
420-64	Lawyer's account for services rendered	No Jurisdiction 11(1)

Private Matter (Continued)

420-65	Responsibility for medical bills following motor vehicle accident	No Jurisdiction 11(1)
420-66	A sale of wheat	No Jurisdiction 11(1)
420-67	Disposition of family estate	No Jurisdiction 11(1)
420-68	Homeowner's tax grant	Investigation
420-69	Distribution of family estate	No Jurisdiction 11(1)
420-70	Low rental housing development	No Jurisdiction 11(1)
420-71	Sale of stocks	No Jurisdiction 11(1)
420-72	Unspecified	No Jurisdiction 11(1)
69-420-73	Alberta Blue Cross coverage	No Jurisdiction 11(1)
420-74	Sale of washing machine	Declined 11(1)
420-75	Lawyer's delays	No Jurisdiction 11(1)
420-76	Construction contract	No Jurisdiction 11(1)
420-77	Refund of air fare	Withdrawn
420-78	Settlement of estate	No Jurisdiction 11(1)
420-79	Validity of a Last Will and Testament	No Jurisdiction 11(1)
420-80	Mineral royalty agreement	No Jurisdiction 11(1)
420-81	Personal bankruptcy	No Jurisdiction 11(1)
420-83	Injury at work	Investigation
420-84	Land purchase proposal	Investigation
420-85	Distribution of estate and appointment of administrator	No Jurisdiction 11(1)
420-86	Property settlement following divorce action	No Jurisdiction 11(1)
420-87	Purchase of a saw	No Jurisdiction 11(1)
420-88	Arbitrary actions of insurance company	No Jurisdiction 11(1)
420-89	Rental damage deposit	No Jurisdiction 11(1)
420-90	Sale of Government bonds	No Jurisdiction 11(1)
420-91	Locating assets of estate	No Jurisdiction 11(1)
420-92	Pipe line right-of-way	No Jurisdiction 11(1)
420-93	Restaurant refusing to welcome hippies	No Jurisdiction 11(1)
420-94	Rental damage deposit	No Jurisdiction 11(1)
420-95	Bankruptcy administration	No Jurisdiction 11(1)
420-96	Investment dispute with trust company	No Jurisdiction 11(1)
420-97	Financial support for separated wife	No Jurisdiction 11(1)
420-99	Motor vehicle accident	No Jurisdiction 11(1)
420-100	Insurance contract dispute	No Jurisdiction 11(1)

Private Matter (Continued)

420-101	Termination of employment	No Jurisdiction 11(1)
420-102	Public inquiry requested to investigate fraud charges	No Jurisdiction 12(1)(b)
420-103	Conduct of defence lawyer	No Jurisdiction 11(1)
420-104	Customer injured in retail store	No Jurisdiction 11(1)
420-105	Delay in forwarding refund by private company	No Jurisdiction 11(1)
420-106	Private property trespass	No Jurisdiction 11(1)
420-107	Family difficulties	Information supplied
69-420-108	Customer injured in department store	No Jurisdiction 11(1)
420-109	Contract dispute	No Jurisdiction 11(1)
420-110	Motor vehicle accident	No Jurisdiction 11(1)
420-111	Insurance company coverage of motor vehicle	No Jurisdiction 11(1)
420-112	Distribution of family estate	No Jurisdiction 11(1)
420-113	Administration of estate	No Jurisdiction 11(1)
420-114	Purchase of a stolen motor vehicle	No Jurisdiction 11(1)
420-115	Termination of private employment	Investigation
420-116	Motor Vehicle insurance contract	Investigation
420-117	Unsatisfactory eyeglasses	No Jurisdiction 11(1)

No Specific Complaint Made (25)

69-450-1	Not specific	Declined 14(1)(b)
450-2	Negotiations about garbage disposal site	Abandoned
450-3	Allegation of murder	Declined 14(1)(b)
450-4	Request for interview re many problems	Declined 14(1)(b)
450-5	Omnibus issues	Declined 14(1)(b)
450-6	Request for appointment	No Jurisdiction 11(1)
450-7	Government contract	Investigation
450-8	Refusal to sell land	Withdrawn
* 450-9	Request for appointment	No Jurisdiction 11(1)
450-10	Dismissal from employment	Not Justified
450-11	Has a problem — unknown	No Jurisdiction 11(1)
450-12	Omnibus issues	No Jurisdiction 11(1)
450-13	Omnibus issues	Investigation
450-14	Omnibus issues	Investigation
450-15	Religious community	Investigation

No Specific Complaint Made (Continued)		
450-16	No specific complaint	Declined 14(1)(b)
450-17	Request for assistance only	No Jurisdiction 11(1)
450-18	Not specific	Discontinued
450-19	Not specific — against numerous agencies	Withdrawn
69-450-20	No details whatsoever	Investigation
450-21	Information requested concerning disability pensions	Abandoned
450-22	Request for appointment	Investigation
450-23	Housing program	No Jurisdiction 11(1)
450-24	Construction of a centralized school	No Jurisdiction 11(1)
450-25	Request for appointment	No Jurisdiction 11(1)
Courts of Law	(45)	
69-460-1	Judgment by Magistrate's Court	No Jurisdiction 11(1)
460-2	Criminal conviction	Declined 12(1)
460-3	Criminal conviction	Investigation
460-4	Procedure followed in raising defence funds	No Jurisdiction 11(1)
460-5	Court judgment in motor vehicle case	No Jurisdiction 11(1)
460-6	Criminal conviction	No Jurisdiction 11(1)
460-7	Criminal conviction	No Jurisdiction 11(1)
460-8	Traffic violation	No Jurisdiction 11(1)
460-9	Criminal conviction	No Jurisdiction 11(1)
460-10	Traffic charge following motor vehicle accident	No Jurisdiction 11(1)
460-11	Criminal conviction	No Jurisdiction 11(1)
460-12	Dissatisfied with counsel at trial	No Jurisdiction 11(1)
460-13	Criminal conviction	No Jurisdiction 11(1)
460-14	Criminal conviction	Not Justified
460-15	Criminal conviction	No Jurisdiction 11(1)
460-16	Garnishee proceedings	No Jurisdiction 11(1)
* 460-17	Paternity suit	No Jurisdiction 11(1)
460-18	Criminal sentence	No Jurisdiction 11(1)
460-19	Criminal conviction	No Jurisdiction 11(1)
460-20	Judicial separation	No Jurisdiction 11(1)
460-21	Court alimony award	No Jurisdiction 11(1)
460-22	Criminal conviction	No Jurisdiction 11(1)
460-23	Criminal conviction	No Jurisdiction 11(1)

Courts of Law (Continued)

69-460-24	Sentence in criminal court	No Jurisdiction 11(1)
460-25	Order regarding child custody	No Jurisdiction 11(1)
460-26	Qualifications and conduct of Magistrate	No Jurisdiction 11(1)
460-27	Conviction under Medical Profession Act	No Jurisdiction 11(1)
460-28	Summons for traffic offense	No Jurisdiction 11(1)
460-29	Order of the Family Court	No Jurisdiction 11(1)
460-30	Decree of Judicial Separation	No Jurisdiction 11(1)
460-31	A Judgment and the subsequent civil collection steps	No Jurisdiction 11(1)
460-32	Seeks lawyer for criminal appeal	No Jurisdiction 11(1)
460-33	Legal Aid denied	No Jurisdiction 11(1)
460-34	Legal Aid application rejected	Not Justified
460-35	Legal Aid refused for appeal	No Jurisdiction 11(1)
460-36	Traffic conviction	No Jurisdiction 11(1)
460-37	Reduction of sentence requested	No Jurisdiction 11(1)
460-38	Sentence for vagrancy conviction	No Jurisdiction 11(1)
460-39	Reduction of sentence of the Court requested	No Jurisdiction 11(1)
460-40	Conviction	No Jurisdiction 11(1)
460-41	Family dispute	Investigation
460-42	Decree Nisi in divorce action	No Jurisdiction 11(1)
460-43	Adjournments in divorce action	Investigation
460-44	Order under Alimony Orders Enforcement Act	Investigation
460-45	Motor Vehicle Accident Claims Fund	No Jurisdiction 11(1)

Request for Assistance—No Complaint Involved (15)

69-470-1	Rental conversion problem	No Jurisdiction 11(1)
470-2	Requests explanation of certain legislation	Information supplied
470-3	Dispute with chartered bank	No Jurisdiction 11(1)
470-4	Confinement of patient at out-of-province hospital	No Jurisdiction 11(1)
470-5	Out-of-province complaint	No Jurisdiction 11(1)
470-6	Proposed contract—Alberta Power Commission	Withdrawn
470-7	Public Relations Company survey	No Jurisdiction 11(1)
69-470-8	Assistance wanted regarding warrant for convict	No Jurisdiction 11(1)
470-9	Crimes Compensation Board	Information supplied
470-10	Pensions for disabled persons	Investigation
470-11	Income Tax matter	Information supplied

Request for Assistance—No Complaint Involved (Continued)

470-12	Crime compensation	Information supplied
470-13	Acceptability of foreign education	No Jurisdiction 11(1)
470-14	Value of shares of private company	Investigation
470-15	Landlord—tenant trouble	Rectified

Complaints re Universities (3)

69-490-1	Not specific	No Jurisdiction 11(1)
490-2	Increased charges at University Cafeteria	Declined 12(1)(a)
490-3	Dismissal from employment	No Jurisdiction 11(1)

Appendix IV

SUMMARIES OF VARIOUS CASES

DEPARTMENT OF AGRICULTURE

67-100-5

In 1967 this complainant advised me how his successful farming operation was adversely affected by an irrigation project. He indicated that irrigation run-off waters were diverted into two creeks that flowed through the centre of his farm.

The irrigation development responsible for this water diversion was the St. Mary and Milk Rivers Development. As a result of legislative amendments, this irrigation project is now operated by a Board of Trustees, which is responsible directly to the ratepayers of the district. Nevertheless, at all material times this irrigation project was a Provincial Crown Corporation.

The complainant advised me that ever since 1956 he had submitted complaints to the officials of the S.M.R.D. concerning the damage and inconvenience caused to his farming operation by irrigation run-off waters flowing through these creeks.

These irrigation run-off waters were sufficient to breach temporary crossings that had been constructed across the major creek flowing through the farm. It seems that the buildings were located on one side of this particular creek and the cattle were pastured on the opposite side. Consequently, the complainant was forced to drive twelve miles by road as well as travelling through another man's field in order to proceed from one side of this watercourse to the other.

My investigations revealed that the Department of Agriculture had constructed a temporary crossing across the major creek in question at a total cost of $1,241.50 in an effort to ameliorate the complainant's severance problem. Unfortunately, that temporary crossing constructed at the expense of the Department was destroyed during a subsequent spring run-off.

I was satisfied that the complainant had not in any way exaggerated his problem in his submission to me, and that the only reasonable method by which this problem could be solved would be through a more permanent bridge crossing.

I submitted to the Department the results of my investigations and the Department voluntarily agreed to assume the entire costs of a more permanent crossing, involving an estimated cost to the Department of $3,751.20. I was advised that this severance problem was solved by a crossing that was completed on July 31, 1969. This main crossing consisted of five 30 foot long culverts. Four of these culverts are classified as arch culverts, being 31 inches x 50 inches, and the fifth culvert is classified as a round 36 inch culvert.

In addition to this main crossing, the Department installed a further crossing which included the installation of an additional culvert to provide the complainant with another necessary crossing. This crossing was located over the spillway connected with the main creek.

The complainant indicated his satisfaction with the steps taken by the Department to eliminate this severance problem and the future damage that would otherwise have occurred to his farming operation.

67-100-5 (Continued)

He did, however, express some concern that more care should be exercised in the future regarding the operation of the dam outlet gates, especially during spring run-off times. However, it was explained to him that the Government would not be able to assist him in any way with that problem in the future as this irrigation district was no longer a Crown Corporation. He was advised to refer this matter to the Board of Trustees of the district.

The complainant also requested my assistance regarding a land taxation problem. It seems that in June 1965 he had been advised by the Field Services Division of the Department of Municipal Affairs that he owned the creek bed of those creeks flowing through his farm. For that reason, he was obliged to pay taxes on the entire section of land, including those acres of land consisting of the creek bottom. Upon contacting the Department of Agriculture, the complainant had been advised that the Crown in fact owned the creek bed.

As soon as I was advised that the complainant's most serious problems had been rectified through the construction of the suitable crossings, I referred this property assessment issue to the Deputy Minister of the Department of Municipal Affairs and the Alberta Assessment Commissioner. This aspect of the complainant's difficulties was not directed against the Department of Agriculture. I include it in this section of my report because of the connection between this complaint (69-190-11) involving the Department of Municipal Affairs and the complaint (67-100-5) involving the Department of Agriculture.

The complainant wanted confirmation regarding the ownership of those creek beds flowing through his land. He felt that if the Department of Agriculture was correct that the creek beds were owned by the Crown, that he should not be required to pay taxes on those lands comprising the creek beds. He was further disturbed that two Departments of Government had expressed contrary opinions on this situation.

There seems to be no doubt that The Public Lands Act established the Crown as owner of those creek beds, notwithstanding the fact that the title of the quarter sections in question showed the complainant as the owner.

The Public Lands Act was repealed and re-enacted during the 1966 Legislative Session. I understand that the appropriate section covering this situation in The Public Lands Act, 1966, is Section 6 thereof that states as follows:

> "6. (1) Subject to subsection (2), the title to the beds and shores of all rivers, streams, watercourses, lakes and other bodies of water is hereby declared to be vested in the Crown in right of Alberta and no grant or certificate of title made or issued before or after the commencement of this Act shall be construed to convey title to such beds or shores.
>
> (2) Subsection (1) does not operate
>
> (a) to affect any grant made before or after the commencement of this Act that specifically conveys by express description the bed or shore of any river, stream watercourse, lake or other body of water, or any certificate of title found on that grant, or
>
> (b) to affect the rights of a grantee from the Crown or of any person claiming under him, where such rights have been determined by a court before June 18, 1931, or
>
> (c) to affect the title to any land belonging to the Crown in right of Canada."

67-100-5 (Continued)

Prior to 1966, the appropriate provision in The Public Lands Act appears to be Section 5 (2) that stated as follows:

> "5. (2) Nothing in this Act or any other Act or the rules of the English Common Law shall be construed to vest or to have heretofore vested in any person the land that comprises at any time the bed or shore of any lake, river or stream, and notwithstanding the provisions of any certificate of title, the title to land shall be construed accordingly. (1949, c.81, s.5; 1950, c.53, s.4; 1951, c.68, s.3)"

The Alberta Assessment Commissioner advised me that while the title to the complainant's property vests in him the total surveyed acreage in each quarter of the section in question, nevertheless, pursuant to Section 6 of The Public Lands Act, the area comprising the creek running through his property reverts to the Crown.

The complainant therefore should not be assessed and taxed in connection with those portions of the farm consisting of the creek beds. The Field Services Division of the Department of Municipal Affairs was advised of the said provisions of The Public Lands Act and concurred with the recommendations of the Alberta Assessment Commissioner that the complainant's property should be reassessed in its entirety for the taxation year 1969, with suitable allowances made for the area contained in the creek bed, which is vested in the Crown.

The necessary Certificate and Order authorizing a reassessment of the complainant's land was duly issued and the local assessor was instructed to carry out a re-evaluation.

I was satisfied that the Department of Municipal Affairs took every reasonable step available to have this particular aspect of the complaint rectified. The complainant has been advised that he has the right to appeal the decision of the assessor to the Court of Revision and ultimately to the Alberta Assessment Appeal Board. I would, of course, be unable to take any further steps in this investigation unless the complainant contacted me after the matter had been referred to the Alberta Assessment Appeal Board.

Other citizens will, no doubt, also be adversely affected by such property taxation inequities. I assume that if the matter is not rectified at the local government level, such individuals will refer their situation directly to the Alberta Assessment Commissioner, so that the matter can be rectified as it was in this case.

As all of the complainant's difficulties were rectified by the Departments of Agriculture and Municipal Affairs respectively, I have closed my files.

67-110-21

The complainant and his wife were joint complainants in this matter. The original complaint was made in December 1967.

Their story was that in 1965 the wife's automobile, which was in a parking lot, was struck by another car. They stated that the driver of the other car referred them to a body shop where they could have the car repaired and he would pay the bill for the damage. According to their story, the Manager of the body shop was aware of the arrangements for payment.

Eventually, when the car was repaired, the driver who had undertaken responsibility to pay for the repairs to the complainant's car, had left the city and could not be located.

The body shop therefore called upon the complainants to pay the debt and when they protested, he took civil action against the wife in the Small Debts Court.

The complainants state that they sought legal advice which was to the effect that they were not obligated to pay the bill.

Eventually, the complainant's wife received a summons to appear in Court on May 5, 1966.

Both the complainant and his wife are school teachers, and it was most inconvenient for them to take time off to attend Court at that time, particularly so close to the end of the school year.

Therefore, on April 27, 1966, they wrote a letter to the Small Debts Magistrate asking him to postpone the trial date until after school was out.

What happened thereafter has been the subject of conflicting reports, statements and affidavits during this investigation.

The complainants have maintained that they phoned the Small Debts Court several times to find out whether or not the case had been postponed. It is their assertion that they were told a letter had been received, and that they would be advised by letter. Their testimony is that after several phone calls and some indication of impatience by the staff of the Small Debts Court, they decided to wait for a letter from the Magistrate.

According to their own statement, the next they heard was when the solicitor representing the body shop phoned them, and told them that the case had been heard on July 5, 1966, and Judgment had been taken against them "in absentia."

The complainant's wife was notified by the School Board of a garnishee on her wages, which information was also available to the Principal and other members of the staff. The garnishee was in the amount of $42.35.

In due course the complainants brought the matter to the attention of the Ombudsman.

The major point of complaint was to the effect that the complainants felt they had done all that they could be reasonably expected to do, not being legally trained. They had written the Magistrate asking for an adjournment, and

67-110-21 (Continued)

it is most important to note throughout the events which followed, that the Magistrate, in fact, *did grant that adjournment to July 5th.*

The point of disagreement is that the complainants stated they were never advised of the new date of the hearing, although, they state, they were told by telephone after several inquiries that they would be so advised.

The complainants were also most upset about the embarassment which was caused to the complainant's wife by service of a garnishee upon the School Board, and the circulation of this knowledge among the staff of the school where she was employed.

After some preliminary investigation, I notified the Deputy Attorney General in April of 1968 that I proposed to carry out an investigation.

The complainants had previously written their complaint to the Department of the Attorney General, which Department had caused an inquiry to be made by a member of the staff of the Debtors' Assistance Board. The investigation in short, indicated that the onus should be on the complainants to have established the actual date of adjournment.

The investigating official's report also mentioned that the Magistrate and his Chief Clerk had advised that if they were to attempt to answer by correspondence the many requests received, it would be absolutely impossible to carry on normal schedules due to lack of staff. Their report said:

> "They therefore place the onus upon the person requesting an adjournment to ascertain the new date of hearing and the person requesting an adjournment is so advised."

This latter statement in quotes is, of course, completely contrary to the information supplied to this office by the complainants.

I was also somewhat concerned with the admission that correspondence addressed to a Court of Law, could not be answered by the staff, particularly as the complainants had alleged in this case that their own letter had never been answered.

It seemed to me that the quoted extract placing the onus upon the person requesting an adjournment to ascertain the new date of hearing, raised a logical question as to how the person requesting an adjournment was to know that the onus had been placed on him, if he was not told so, and received no communication from the Court.

The investigation by the Ombudsman's Office was commenced with a study of the current file from the Attorney General's Department, and was followed by an interview with the complainants by the solicitor to the Ombudsman's Office. Accompanied by the complainants, he also interviewed the two members of the staff of the Small Debts Court who, at all times relevant, were the only members of that staff.

Following this investigation, I reported to the Deputy Attorney General in August of 1968, that I was of the opinion that the complainants had suffered an injustice due to an administrative omission by the civil service staff of the Small Debts Court of the city concerned.

I make it quite clear that I in no way investigated or commented on the procedures held in Court, this being an area in which I have absolutely no jurisdiction. My investigations were confined to administrative practices in this particular Small Debts Court.

67-110-21 (Continued)

In my report to the Deputy Attorney General, I pointed out that Mr. Weir, the Solicitor to the Ombudsman's Office, was advised by the ladies in the office of the Small Debts Court, in the presence of the complainants, that they were in fact the only members of the staff in question at all material times, and that the last recollection they had at all of this particular matter, is putting the file away on the conclusion of the trial.

They stated they had no recollection whatsoever of any conversation with the complainants and admitted that it was quite likely that a letter from the complainants might be of assistance in bringing their request for an adjournment to the attention of the Magistrate.

I pointed out that there was no question that a letter had been written by the complainants, requesting an adjournment. There was no question that an adjournment had been granted by the Magistrate. There was an admission that the letter had not been answered, and it was my view that the complainants were entitled, if not on legal grounds, at least on the grounds of good sound business procedure, to an answer to their letter. I pointed out that due to the lack of such a letter of reply, a Judgment had been rendered against the complainants in default.

In November, I received a reply from the Department of the Attorney General explaining the Department's view of what had taken place, stating that it would not be considered proper to permit the complainants to avoid meeting their financial obligations by having the Department refund their Judgment as I had requested.

However, there was one sentence of that letter which attracted my particular attention. It was as follows:

> "The Magistrate and court staff are satisfied the (the complainants) were notified by telephone of the new trial date of July 5, 1966."

Here was a firm statement which, if it could have been supported by sound evidence, would have given a complete denial to the complainants' story.

I received a subsequent notification from the Department of the Attorney General that it was their view, on a legal basis,

> "that the law did not require the notice to be given to (the complainants) by mail, and their only recourse for compensation would be by taking action against the party they claim to be responsible for this accident to their vehicle."

I was, of course, now directly interested in the identity of the person, whom the Magistrate and office staff were satisfied had notified the complainants by telephone of the new date of trial.

I communicated with the Department. I pointed out the lack of recollection of the instances which had occurred when the members of the staff were interviewed by Mr. Weir, and the conflict of evidence with which we were now faced.

On one hand, the staff have no recollection of any communication being made to the complainants. Conversely, the Department advises me that the Magistrate and the staff are satisfied the complainants were notified by telephone of the date of the adjournment. Somebody had to be wrong, and I had also by this time a Statutory Declaration from both the complainants verifying the lack of any notice of the date of the adjournment.

67-110-21 (Continued)

I therefore requested the Deputy Attorney General that I be advised of the name of the person who supplied the information of the new date of hearing to the complainants by telephone, and, as closely as possible, the date on which it was done.

It seemed to me that the production of the name and some verification of the fact that the telephone call had been made would, at least, settle the matter of the veracity of the complainants' story.

I made the request for the name of the person concerned in December of 1968, and in April of 1969, I received from the Department of the Attorney General, a copy of a letter of the Magistrate in question, addressed to the Administrator of the Attorney General's Department. The Magistrate forwarded a Statutory Declaration from a Clerk of the Small Debts Court.

However, the Magistrate's own letter included the following statement: "*It is the firm policy of this office that adjournments are requested in court on the day set for the hearing* and not given over the phone."

This is a rather remarkable statement, considering that the Magistrate did, in fact, give an adjournment in this particular case in answer to a letter from the complainants. I emphasize here again that I am referring only to a Magistrate acting in an administrative capacity in this case, and not referring in any way to his judicial function.

The pertinent parts of the Statutory Declaration which accompanied the letter were paragraphs three, four and five as follows:

"3. On or about the 27th day of April AD 1966 a phone call was received from the Defendant asking for an adjournment, and at this time the Defendant was informed that we did not give adjournments over the phone, and that it had to be requested in the court at the time of the Hearing. Also that there was no law against her writing in and requesting an adjournment but that it would be up to her to check with this office and see if it had been granted and to what date and time. This was not done, so the Hearing went on, on the 5th day of July AD 1966.

4. I did not notify the Defendant of the adjourned date as I had already informed her that it was up to her to inquire if the magistrate had granted the request for adjournment. In her letter she did not specify any particular date just anytime after the end of June.

5. It is the policy of this office to inform those requesting adjournments by phone to appear in court on the date set for the Hearing and make their request then."

Thus, we have the Magistrate stating that it is the firm policy of this office that adjournments are requested in Court. We have the Statutory Declaration of the Clerk of the Court confirming this firm policy, but in the same breath advising the complainant there was no law against her writing in and requesting an adjournment, but she would have to check with the office and see if it had been granted. The next paragraph, which I think is the most important one in the whole affidavit, says, "I did not notify the Defendant of the adjourned date."

Therefore I was misinformed, when I was advised previously by the Department that the Magistrate and his staff were satisfied that the complainants were notified by telephone of the new trial date of July 5, 1966.

67-110-21 (Continued)

By this time, I had come to the conclusion that nobody in the Magistrate's office really knew what had happened at all. The only two things now definitely certain were; first, that the Magistrate had granted an adjournment on the strength of a letter from the complainant and secondly, the complainants had not been notified of the new date of the hearing.

As a result of these developments, I requested an interview with the Honourable the Attorney General which was held on July 14, 1969, with the Assistant Deputy Attorney General present.

After discussion, the Attorney General agreed to let me have his views shortly afterwards.

I later received a letter from the Honourable the Attorney General, the pertinent part of which reads as follows:

> "We have reviewed the file and because there is a conflict in the statements given by the various parties concerned and because (the complainants) feel so aggrieved about not having the opportunity of defending the case in the Small Debts Court, we will send you a cheque in the amount of the claim and costs paid by (the complainants).
>
> In arriving at this decision we are satisfied ourselves that there was no legal requirement that (the complainants) be notified of the new date of the trial in this action after they failed to appear on the original date set for the trial.
>
> We have a new Magistrate presiding in the Small Debts Court and we propose to have our Inspector of Legal Offices notify the Clerks of the Small Debts Courts that when an adjournment is requested and granted, as it was in this case, all parties to the action not present in person when the adjournment is granted, be notified in writing so there won't be any confusion about the date the trial is to be held. We are also notifying the officials in charge of these Courts that a reply must be made to all correspondence.
>
> This should resolve the type of conflict which occurred here as outlined in Mr. Friedman's memorandum to you of November 27, 1968 in which he states that the Magistrate and court staff were satisfied that (the complainants) were notified by telephone of the new trial date of July 5, 1966."

This letter was followed by a cheque from the Attorney General's Department in the amount of the Judgment assessed against the complainants, which cheque has been forwarded to them.

The amount of money involved in this case was not large. The Attorney General has given his opinion that there was no legal requirement for the complainants to be advised of the new date of the hearing.

My concern, however, in this investigation was that aside from the legalities, good business practice would seem to demand, that citizens confronted with the law in action, and who cannot be expected to understand all the whys and wherefors, should be entitled to an answer to their correspondence, and the normal notification of impending events, which one would expect from any efficient business concern.

67-110-21 (Continued)

While I am pleased on behalf of the complainants that the Attorney General saw fit to obtain a refund of the financial assessment against them, it is particularly encouraging to note that the Attorney General has laid down explicit procedures, which should prevent misunderstandings of this nature, if the procedures are followed.

67-120-5

The complainant is an Alberta school teacher. He was employed by the Federal Government from the 1st of September 1949 to the 31st of August 1951, teaching in Indian Residential Schools in another province. The Federal policy on contributions for superannuation did not, at that time, permit him to make contributions due to the fact that he was on temporary staff only. Only permanent staff were permitted to participate in the superannuation plan.

In the school year of 1951-52, having left the Federal Government Service, he was employed as a school teacher by a local school board in Alberta. He made the customary contributions to the Teachers' Retirement Fund, administered by the Board of Administrators, Teachers' Retirement Fund.

The complainant returned to University in 1952, graduating in 1955 as a Bachelor of Commerce. He was then employed in industry from 1955 until the fall of 1962, when he returned to teaching in another Alberta school until May of 1963. He again made the customary contributions to the Teachers' Retirement Fund.

In May of 1963, he transferred to the Provincial Government Department of Education, as Co-ordinator of Business Training. Upon joining the Provincial Government, the complainant stated that he was told, in respect of superannuation, that he could be credited for the time he had worked for the Federal Government, provided he paid into the Public Service Pension Fund the required amount to cover the period of his service with the Federal Government.

In order to have his time with the Federal Government count for pension with the Alberta Public Service Pension Fund, he was required to make a payment amounting to the total of the amount he would have paid as a contributor to any Federal pension fund, plus the amount that the Federal Government would have contributed itself, had he been a contributor to a Federal pension fund.

The sum total of these two amounts was calculated at $2,214.91. This amount *all of which was the complainant's own money,* was paid into the Public Service Pension Fund on the basis of $1,500 for the first year; it being the maximum allowed in any one year, and the balance of $714.91 the next year.

At the same time his previous contributions made to the Teachers' Retirement Fund in respect to his two former periods of service as a teacher in Alberta, were transferred to the Provincial Pension Fund in accordance with reciprocal arrangements between the two funds. This amount was an additional $364.17.

The complainant continued with the Department of Education as a contributing public servant until the fall of 1964, at which time he again returned to teaching in another Alberta school.

His normal and understandable desire was then to transfer the total of his pension contributions; Federal teaching and Provincial Public Service, to the Teachers' Retirement Fund. He expected that by so doing, all his time in the service of the Federal Government; as a teacher at various schools in Alberta, and as a public servant in the Department of Education of Alberta, would be counted as pensionable service.

67-120-5 (Continued)

In order to assure himself of his pension, he spoke to the Assistant Secretary-Treasurer of the Teachers' Retirement Fund, and his conversation is best described in his own words as follows:

> "At that time I spoke to ....., the Assistant Secretary-Treasurer of the Teachers' Retirement Fund.
>
> "I asked her what the position was regarding my previous contributions and did not obtain an answer for some time, but since I could not get a clear statement, I held up the transfer about a year. Eventually, I went to her personally in the Fall of 1965 to try and get a ruling. I still had to wait some time, but eventually, she said regarding the contribution to the Provincial Government in respect to Federal Government service, that doubtless if it was all right with the Provincial Government it would be all right with the Teachers' Retirement Fund because of the reciprocity arrangements and similarities etc., and she advised me to pay the money over.
>
> "Consequently I did.
>
> "Then, in January 1966, when we received the 31st December 1965 statement of my contributions to the Teachers' Retirement Fund which apparently had not been posted to any period more recent than August 1965, and the payments which I had authorized to be made in December 1965, or thereabouts, were not on it, (the complainant) telephoned (Asst. Sec. Treas.'s) office and was told that the file could not be found and (Ass't. Sec. Treas.) was absent. Accordingly, (the complainant) telephoned a week or two later and at that time was told by (Ass't. Sec. Treas.) in response to my question whether there be any trouble over the Federal service that she did not expect so.
>
> "About this time we ascertained from the Public Service Pension Board of the Government of the Province that the transfer funds had been made. Evidently, the T.R.F. was just late in posting its ledgers.
>
> "Shortly after this I went to see (Ass't. Sec. Treas.) and for the first time she told me that the Federal service would not count as pensionable service in spite of the fact that $2,214.91 of the fund contributed by me to the Provincial Government was in respect of this service and no other."

The files of the Board of Administrators of the Teachers' Retirement Fund will indicate that the complainant made several attempts to have that portion of his contributions which he personally contributed for Federal service, returned to him.

He states that it was only after he had authorized the transfer of his contributions from the Public Service Pension Fund to the Teachers' Retirement Fund, that he learned of the provisions of the bylaw covering the Teachers' Retirement Fund, which created his problem.

As I understand the interpretation of that bylaw, the Teachers' Retirement Fund does not permit service as a teacher, before the age of thirty, to be counted as service towards pension. A similar provision used to exist in the Provincial Public Service, but was eventually abolished.

67-120-5 (Continued)

Thus the complainant had been permitted to contribute, from his own personal funds, the sum of $2,214.91 to the Teachers' Retirement Fund, for service with the Federal Government, but which, under the bylaw, could not possibly be permitted to count for pensionable service.

The question which arose in my mind, particularly in view of the complainant's subsequent civil suit for recovery, was whether any sensible man would voluntarily and knowingly make a gratuitous donation of that sum of money if he was aware that he could not count the time that the contribution covered for pension. It appeared to me the answer had to be "NO."

It appeared to me that he had made a reasonable assumption that his time prior to the age of thirty would count towards pension, inasmuch as he was just transferring his funds from the Province of Alberta Public Service Pension Fund, where service prior to the age of thirty *did count towards pension.*

The next question which arose was whether the Assistant Secretary-Treasurer of the Teachers' Retirement Fund did tell him of this particular difference of age qualification between the two pension funds. I think that the Assistant Secretary-Treasurer's own memory of the conversation with the complainant is best illustrated by her testimony in the Examination for Discovery during the subsequent civil suit. I was particularly interested in the following questions and answers:

"22Q And was there no discussion concerning the — the term slips my mind — oh, the number of years that he would be credited with pensionable service?

A No.

24Q As a result of this conversation was a transfer made then?

A Yes, (the complainant) wrote a letter and we in turn wrote to the Public Service Pension Board asking that the money be transferred.

25Q During this telephone conversation and other conversations prior to the transfer was there any discussion concerning comparable benefits between the Public Service Pension Fund and the Teachers' Retirement Fund?

A I recall no previous conversation.

28Q But there was no further discussions concerning what he would be getting out of the Teachers' Retirement Fund?

A Not at the time, no.

29Q At any time prior to the transfer?

A Not that I recall."

It would appear to me therefore, that from question 22 and its answer, it was obvious that the Assistant Secretary-Treasurer did not *volunteer* that the time counted for pension under the Teachers' Retirement Fund was dissimilar to the time counted under the Public Service Pension Fund.

Asked about the other conversations which might have led to such a discussion, the Assistant Secretary-Treasurer, quite honestly admitted that she

67-120-5 (Continued)

did not recall any such conversations. I was therefore very strongly of the opinion that the complainant was not advised that the service with the Federal Government, for which he was contributing his own money, would not count for pension.

There is a question as to whether or not there is a duty to have advised him of that condition, and it is important to note that the Public Service Pension Fund had had an identical condition to that which still exists in the Teachers' Retirement Fund; namely, that service before the age of thirty did not count for pension. The 1963 Session of the Legislature of the Province of Alberta had done away with that particular provision in the Public Service Pension Fund, which was just the year before the complainant transferred from the Public Service to teaching in 1964. It would seem that some reference should have been made to it when he made his application to transfer the funds.

The complainant made numerous attempts to recover the contribution as the files of both the Public Service Pension Fund and the Teachers' Retirement Fund disclosed. He was unsuccessful.

The only methods offered to him by which he could recover this money were indicated in a letter from the Secretary-Treasurer of the Board of Administrators, dated April 1, 1966. The conditions were as follows: (1) he could resign from teaching in which case he would be repaid the amount, less a charge of $10.00 for each year of contributory service; (2) he could return to the Alberta Civil Service; (3) he could return to the Federal Civil Service. It was made clear that if he, after that action, sought reinstatement as a teacher with the Teachers' Retirement Fund, he would be required to pay on identically the same basis as that which he had already made. Any of the above alternative suggestions were calamitous to a man who had adopted a teaching career in this Province.

Eventually, in an effort to obtain a refund of this money, the complainant took civil action against the Board of Administrators of the Teachers' Retirement Fund.

Hereunder will be found a complete copy of the Oral Judgment of the Honourable Mr. H. W. Riley, in this case.

IN THE SUPREME COURT OF ALBERTA
JUDICIAL DISTRICT OF EDMONTON

No. 49488

BETWEEN:

(Complainant)

Plaintiff

— and —

THE BOARD OF ADMINISTRATORS THE TEACHERS' RETIREMENT FUND,

Defendant

ORAL JUDGMENT
of The Honourable Mr. Justice H. W. Riley

67-120-5 (Continued)

I feel sorry for Mr. (complainant) the plaintiff. Throughout this case I have talked about the doctrine of unjust enrichment or unjust benefit — to prevent a man from retaining money which is against conscience that he should keep, and I am fortified in that aproach by the decision of Mr. Justice Cartwright in the case of Beatrice C. Deglman and Guarantee Trust Company of Canada, etc. in 1954 S.C.R. 735, and as I say, particularly the remarks of Mr. Justice Cartwright on page 734 wherein he quotes Lord Wright in the case of Fibrose Spolka Akcyjna v. Fairbairn Lawson Combe Barbour Ltd., 1943 A.C. 32 at page 61:

"It is clear that any civilized system of law is bound to provide remedies for cases of what has been called unjust enrichment or unjust benefit, that is to prevent a man from retaining the money of or some benefit derived from another which it is against conscience that he should keep. Such remedies in English law are generically different from remedies in contract or in tort, and are now recognized to fall within a third category of the common law which has been called quasi-contract or restitution."

On the other hand, one must apply the law. I think the plaintiff was bound by By-law 1966 of the defendant. I doubt if the defendant has the power to return the money at this time. I reluctantly dismiss the action.

I do, however, think the plaintiff was more than justified in bringing the same.

I award costs against the defendant, which I fix at the sum of $400.00, and in addition, all reasonable disbursements.

I strongly recommend to the defendant that they return the sum of $2,214.91 to the plaintiff and get the necessary authority, which they presently lack to do so.

DELIVERED at Edmonton, Alberta,
this 7th day of February, A.D. 1967.

This is a rather remarkable Judgment for several reasons. On legal grounds, by strict interpretation of Bylaw 1966, the Judgment had to find in favor of the Defendant; namely, the Board of Administrators, but in every other respect, the Honourable Judge obviously agreed with the natural justice of the complainant's case. His views are illustrated in such remarks as, referring to the civil suit:

"I do, however, think the plaintiff was more than justified in bringing the same."

The learned Judge also awarded costs against the Defendant, although he had decided the action in favor of the Defendant. This is a rare occurrence. Finally, and most important, the Judge stated:

"I strongly recommend to the defendant that they return the sum of $2,214.91 to the plaintiff and get the necessary authority, which they presently lack to do so."

The Judge's views on what should be done by the Board are quite clear.

67-120-5 (Continued)

After a period of almost two months, and the Board had taken no further action, the complainant again wrote the Secretary-Treasurer of the Board of Administrators on March 29, 1967. His reply, which was forwarded on June 19th, signed by the Secretary-Treasurer on behalf of the Board, said in part as follows:

> "As you are aware from the judgment itself, the Board does not have the authority to do this under the provisions of the Pension Bylaw 1966. *Authority to do so would break the basic principles established at the inception of the Fund relating to refunds of contributions.* The Board is not prepared to seek authority to accomplish such a purpose."

Referring to the italicized quote above, it was my view that Mr. Justice Riley brought forward a much more basic principle; namely the doctrine of unjust enrichment or unjust benefit. In so doing, he referred to a decision of the present Chief Justice of Canada, Mr. Justice Cartwright, who concluded, in support of his decision, a British case heard before Lord Wright who said:

> "It is clear that any civilized system of law is bound to provide remedies for cases of what has been called unjust enrichment or unjust benefit, that is to prevent a man from retaining the money of or some benefit derived from another which it is against conscience that he should keep. Such remedies in English law are generically different from remedies in contract or in tort, and are now recognized to fall within a third category of the common law which has been called quasi-contract or restitution."

It is particularly important to note that Lord Wright did not refer to *illegal enrichment* or *illegal benefit,* he referred to *"unjust enrichment"* or *"unjust benefit."*

I could not escape the conclusion that the Board at that time was standing pat on a legal technicality despite what, in the Judge's mind, was a clear contravention of natural justice stemming back to the common law.

There was, however, some apparent recognition that remedial action should be taken, provided it could be done without changing the Bylaw.

The Board of Administrators of the Teachers' Retirement Fund indicated that if the Public Service Pension Board was to write and ask the Board of Administrators for the refund of the contribution of the complainant, the Board of Administrators would be prepared to refund the money to the Public Service Pension Fund, and it could then be returned to the complainant. However, the Director of the Public Service Pension Board felt that as the administration of his own Department was not at fault, and as the situation was not brought about by any administrative malfunction on the part of his Department, he should not be called upon to make such a request to the Board of Administrators. He was, however, prepared to return the funds if the Board voluntarily refunded the monies to the Public Service Pension Fund. Nobody moved and the complainant was sitting in the middle of this stalemate. However, the Provincial Auditor ruled that the Director of the Public Service Pension Board could not properly ask for the return of the contributions and that settled that matter.

The great concern of the Board of Administrators of the Teachers' Retirement Fund seemed to be the question of precedent, but I felt that bylaws can usually be amended by the same people who made them, and that any

67-120-5 (Continued)

precedent in this case was a remote possibility due to the peculiar circumstances of this particular case. Such a situation was highly unlikely to arise again.

Having completed my investigation, I came to the conclusion that, as laid down by Section 20(1)(b) of The Ombudsman Act, the withholding of the contribution for Federal service of the complainant in the amount of $2,214.91 was both unreasonable and unjust and by virtue of Section 20(1)(b), was wrong in principle.

I therefore recommended to the Honourable the Minister of Education that the Board of Administrators of the Teachers' Retirement Fund take whatever steps were required to obtain the authority to refund the sum of $2,214.91 to the complainant at an early date. In this I was merely supporting the views given by Mr. Justice Riley. I, of course, felt that any interest earned by the money should also be refunded.

There were some counter suggestions received by me from the Board of Administrators regarding the possibility of removing the age thirty regulation from the Pension Bylaw, but by this time, almost two years after the complaint had been brought to my attention, the complainant regarded any new offers from the Board of Administrators with some suspicion and disillusionment. He felt that he would like to get his money back with whatever interest it had earned, and drop the whole matter at that stage. He pointed out that the Judge's strong recommendation to the Board was that they find the means to return his money and that was what he wanted.

The Honourable the Minister of Education kindly arranged for a meeting in his office between myself, the full Board of the Teachers' Retirement Fund and the Minister.

I put forward my views on behalf of the complainant at that time and a very thorough discussion followed.

I was in due course advised by letter dated April 1, 1969, that when the Board had had an opportunity to discuss the meeting with me, it would advise me of any decision that it made.

On May 7, 1969, I advised the Honourable the Minister of Education, in writing, that I had had no further advice of any decision by the Board.

On June 13th, I advised the Assistant Secretary-Treasurer of the Board of Administrators of the Teachers' Retirement Fund, that as I had received no further communication whatsoever from the Board, indicating that any decision had been taken since their letter of April 1st, I proposed to prepare a brief with my opinions and recommendations for submission to the Executive Council, for its consideration.

I received no further communication, and I therefore, on June 25, 1969, submitted the whole matter to the Lieutenant Governor in Council, expressing my opinions and reiterating my recommendations.

I would point out that this is the first submission to the Lieutenant Governor in Council which I have found it necessary to make since I assumed office on September 1, 1967.

On August 12th, I was advised by the President of the Executive Council that the Board of Administrators of the Teachers' Retirement Fund would meet on Monday, August 18th, at which time this case would be discussed.

67-120-5 (Continued)

On August 28, 1969, I received a letter from the Assistant Secretary-Treasurer of the Teachers' Retirement Fund dated August 26th, which read as follows:

> "I have been instructed by the Board of Administrators to advise you that at a recent meeting of the Board its solicitor was instructed to draft a special by-law that will return to the Public Service Pension Board, for the benefit of (the complainant), the sum of $2,214.91 together with interest calculated at a rate that is the average rate earned by the Fund since the transfer of money was made by The Public Service Pension Board to The Teachers' Retirement Fund, and to the date on which the Order-in-Council is approved. I shall advise you when the Order-in-Council has been signed and the money forwarded to The Public Service Pension Board."

I have kept in touch with the progress of the procedures outlined, and it would appear that the original contributions together with interest earned will be refunded to the complainant early in December 1969.

67-300-17

The complaint in this matter concerned premature stoppage of compensation for injuries received by the complainant. It was the complainant's allegation that following his injury he had received compensation for a period of time, but that this compensation had been stopped prematurely by the Workmen's Compensation Board and that the medical treatment that he had received was insufficient, having regard to the injuries that he had sustained.

It seemed that the Board had concluded that he had no disability remaining by reason of the injury in respect of which he claimed compensation.

The complainant appealed this decision under the provisions of Section 27 of The Workmen's Compensation Act, which is generally regarded as a form of final appeal. As a result, he was further medically examined in 1960 by doctors selected from a panel of doctors appointed by the Workmen's Compensation Board. His examining doctors certified that there was no evidence of disability due to the accident, and no evidence that he had not received adequate consideration, care and compensation for the injury.

The complainant apparently continued to make representations through various channels since that final medical review. He had also obtained personally some medical evidence which, in his view, contradicted the views of the previous Medical Board. I have read this medical evidence and I am in no position to say what bearing, if any, it might have had on a further Board of medical officers.

However, during the investigation, I came across a procedure which I considered could be regarded as discriminatory, and was at least open to question.

When an applicant is given a new hearing by appeal under Section 27 of The Workmen's Compensation Act, the Workmen's Compensation Board, at that time, provided a list of several doctors available for selection to review the previous medical history of the applicant, and possibly to examine him further. The applicant and the employer may each choose one doctor from that list.

It was, however, quite possible, as indeed had happened in this case, that one or more of the six doctors on the list could have been doctors who had previously examined the applicant, and expressed an opinion.

In this particular case, it so happened that a doctor was on the panel, who had previously examined the applicant, and whose opinion had been that further compensation or treatment for the applicant was not justified. Coincidentally, this doctor was the one selected by the employer, while the applicant selected another doctor who had had no previous personal involvement with the applicant.

When I learned of this procedure which had happened during the previous appeal under Section 27, I discussed the matter on an informal basis with the Workmen's Compensation Board. We discussed the desirability of having a Medical Board, pursuant to Section 27 of the Workmen's Compensation Act, composed of medical experts *not previously connected with the case*. I expressed the view that in this particular case, it would seem that the doctor in question, even with the best of intentions, was placed in the position where he was in fact ruling on the reasonableness of his own previous findings.

67-300-17 (Continued)

It is my understanding that the members of the Board agreed with me that such procedure was undesirable.

This viewpoint was made quite clear in connection with another case in which I received a letter from the Board's Secretary, addressed to the Solicitor to the Ombudsman's Office, concerning another claim. That letter stated in particular:

> "The Board is of the opinion that to nominate a doctor who has already expressed his opinion on the questions to be reviewed would nullify the intention of the Section."

It is my understanding that doctors who have previously dealt with the applicant are no longer nominated to the panel from which a selection is to be made by the employer and the applicant.

Additionally, the complainant had suffered another accident since his last medical review, for which he did receive some compensation benefits relating to the injury, and he also underwent certain treatment at the Board's Medical Clinic.

It was my recommendation that the complainant be granted a new Medical Board in accordance with the provisions of Section 27 of The Workmen's Compensation Act, and that this Board deal not only with the latest accident, but that it also review all the previous medical findings of the previous accidents and have them revaluated in light of the developments since the last Medical Board.

I further recommended that no medical practitioner previously associated with the case should be nominated by the Board as being eligible for that appeal. I was in due course advised that my recommendation had been accepted and that it had been agreed that a new hearing in accordance with Section 27 of The Workmen's Compensation Act be held and that the examining specialists also consider other back complaints at that time.

Although the verdict remained the same, and the finding was that the complainant did not have any disability by reason of the injuries in respect of of which he had received compensation, the complainant at least had the satisfaction of having all his previous complaints reviewed and, in my view, the new procedure of appointing the medical panel, will serve to remove suspicions which have been created in the past in the minds of certain applicants.

COMPLAINTS AGAINST CITIES, MUNICIPALITIES, TOWNS, ETC.

67-400-3

On the 12th day of January 1959, a resolution was passed by the Council of the City of Edmonton as follows:

> "Pursuant to Section 728 of the City Act, Council does now resolve that the Attorney General of Alberta be requested to appoint a Judge to inquire at the earliest possible date concerning the matters enumerated in the report to the Edmonton City Council, dated January 12th, 1959, as submitted by the Special Investigating Committee appointed by City Council pursuant to Section 730 of the City Act on December 8th, 1958."

As a result of that resolution, which was forwarded to the Provincial Government, the then Attorney General of the Province of Alberta, the Honourable Ernest Manning, did appoint the Honourable Mr. Justice Marshall Menzies Porter, a Justice of the Supreme Court of the Province of Alberta, to make an inquiry into and concerning the matters referred to it in the aforesaid report to the Edmonton City Council as follows.

There were a number of matters referred to in the terms of reference, which were to be the subject of inquiry by the learned Justice, one of which had to do with allegations of certain employees and officials of the City of Edmonton having accepted or solicited bribes in the course of their employment. There was a further reference to improper policy administration and handling of lands owned by the City of Edmonton and the sale and purchase of said lands ——.

The subsection, however, which concerns us in this particular complaint appears to be Subsection (c), which reads as follows:

> "The improper handling and administration of town planning."

The complainant in this case is an elderly woman, who was the owner of property consisting of several lots, which were adjacent to property owned by the Edmonton Separate School Board.

The Separate School Board negotiated with the complainant in an effort to purchase her properties for a period of approximately eighteen months, but an agreement could not be reached as to the proper price. The complainant was asking for considerably more money than the Board was prepared to offer. The Board then attempted to exchange property with the complainant. She was not, however, interested in any trade.

In due course, the City conducted a re-plot operation in connection with these and other properties. As a result of this re-plot, the properties which the complainant owned were removed from her, and she was given in their place other properties in the immediate vicinity. To say the least, she was not pleased, and it was and is her claim that the properties which she now has, are not as valuable as the properties which were taken from her.

It is important to know something of the background of the complainant, if her position and her state of mind are to be fully understood. She is over eighty years of age, and came to this country from the Ukraine as a young woman. She has worked hard all her life, starting in a western city as a domestic and doing menial work for a number of years. She could not read nor write at that time, and still has a very strong accent though she speaks and understands

English very well indeed. She claims that she was not able to read or write English, but through the long period of her troubles with this complaint, she taught herself to read and write English so that she could understand what was going on.

She finds it incomprehensible that land which she bought in company with her husband, and which she has held for many years, could be taken from her in this manner, and her views have been fortified greatly by the opinions expressed by the Honourable Mr. Justice Porter, sitting as a Commissioner in the subsequent inquiry.

It is perhaps a little difficult to fully comprehend the fierce possessiveness of this woman for the soil of which she was dispossessed and which she and her husband had purchased through their own labours, unless one has had some experience and knowledge of the Ukrainian people, who came to this part of Canada, and who homesteaded it a number of years ago. The love of the land on which they stand is inculcated in them. It is part of their nature. I myself have had much personal experience with it, and I have therefore been able to understand the sometimes seeming obstinate resistance to settlement which the complainant has exhibited, and which I am aware has tried the patience of others, including lawyers, who have tried to assist her.

Following the re-plot the matter was referred to the Public Utilities Board but purely on the grounds of compensation for any damage or loss resulting from the re-plot. The question of the value of the land or the legality of the re-plot were not matters before the Public Utilities Board. At that Board the complainant was represented by counsel. A modest sum was granted, mostly for damage to bushes and hedges. The complainant has consistently refused to accept this settlement or the money which was awarded.

The complainant has sought legal assistance from a number of firms of solicitors in this City in her efforts to obtain what she considers justice, but she has been unsuccessful. In fairness to the number of solicitors who have represented her, I would point out that she is not particularly amenable to suggestions, and her own view as to the value of the land which she held is probably exceedingly higher than competent counsel would be prepared to seek. It is my belief that several solicitors have found it necessary to withdraw from her case, being unable to reach an agreement with her as to the procedure to be taken and the amount involved.

In any event, she placed her case before the Porter Commission, as it has been referred to, and after hearing evidence, the Commissioner gave the following opinion which is part of the existing record.

> "Mrs. (complainant) owned a parcel containing several lots contiguous to a school site which the school board desired to expand. They found themselves unable to negotiate a voluntary purchase from her at a price that they thought was appropriate. They therefore induced the city to undertake re-plot proceedings as a result of which the school board wound up with two lots out of Mrs. (complainant's) property and she was given two others whose location gave them no such value as those she had been deprived of because there was no contiguous occupant in like need of land to the need of the board. There was doubt that the board could have expropriated because the necessity for the lands as distinct from the convenience of having them, was not clear.

This instance constitutes a flagrant example of the misuse of the re-plot powers. While it is true that the individual's rights must yield to the dominant public need, the courts have always said that Parliament never intended that the common good should be served by victimizing an individual in loss because of the accident that his land rather than his neighbor's, should be required for public purposes."

This pronouncement by the Commissioner confirmed the complainant's worst fears, and she is fully and firmly convinced today, as she was at that time, that she has been the victim of a conspiracy between the Edmonton Separate School Board and the City of Edmonton.

She has, it is my understanding, brought the matter to the attention of the Attorney General's Department on several occasions, and it has been suggested that she seek legal advice.

When she brought the case to me in 1967, the whole complaint, as she saw it through her eyes, was against the City. If she were entirely correct, then I had no jurisdiction whatsoever to carry out an investigation, or to criticize the actions of City officials. My jurisdiction under The Ombudsman Act extends only to complaints against departments or agencies of the Government of the Province of Alberta.

There was, however, a situation, whereby the City of Edmonton had requested the Provincial Government in the person of the Provincial Attorney General, to call the Commission, and it was indeed the Attorney General of the Province who, in fact, appointed the Judge and ordered the Commission.

The major problem with which the complainant was faced, as I saw it, was that neither the Provincial Government nor the City of Edmonton, had so far as I was able to see, paid any official recognition to the pronouncements of the Commissioner in the case of the complainant. They were simply left there hanging in mid-air, being neither accepted nor rejected by either Government.

It will be remembered that it was this same Commission which was most critical of the conduct of a former elected official of the City of Edmonton. Apparently as a result of that criticism, the City had seen fit to commence legal action against the elected official concerned.

Here was a case in which the City itself was very severly criticized by the same Commission, and the criticism had, so far as I could ascertain, been neither rejected nor accepted by the City, nor had any action been taken on it one way or the other by the City.

I should make it very clear that I have no jurisdiction whatsoever, as I have mentioned before, to intervene in those matters which are entirely within the jurisdiction of a city. I therefore endeavored to find legal opinions as to whether the fact that the Attorney General of the Province had himself called the Commission, placed any onus on the Provincial Government to take some steps to either accept or reject the opinions expressed by the Commissioner in this case.

The result was a very lengthy investigation, which was particularly complicated by the fact that all the allegations made by the complainant were against the City, where I had no jurisdiction, whereas I myself felt that I must explore on behalf of the complainant, the possibility that there was some responsibility on the part of the Provincial Government to at least acknowledge

the criticism made by the Commission. The complainant had been to the law officers of the Attorney General's Department on various occasions, and, as mentioned before, had been advised to seek legal advice. Such advice, of course, in no way accepted any responsibility on behalf of the Provincial Government for the opinions expressed by the Commissioner. Indeed, the advice which I received from the senior law officers of the Crown was to the effect that "it has never been suggested that the Attorney General has any status or any duty to assist (the complainant)" in reaching a satisfactory settlement with the City of Edmonton. The opinion was expressed that the Attorney General does not have any status to assist the complainant and further that there is no legal authority for him to come to her assistance. It was finally stated that her claim is of a civil nature and should be resolved in the usual way.

This left the baby still lying in the middle of the street, and no one was prepared to either pick it up and cherish it, or indeed to even kick it out of the way.

No one would say that the Commissioner was right. No one would say that he was wrong. No one said anything. As I was unable to resolve my dilemma, I therefore wrote directly to the Attorney General of the Province outlining my entire investigation and the problems which I faced.

Generally, throughout the letter the major question which I asked was, that if the Inquiry was ordered by the Attorney General of the Province, as indeed it was, was there then any responsibility upon the Province to require the City to make a decision, or alternatively to make one itself in connection with the views expressed by the Commissioner.

The Honourable the Attorney General wrote me a very carefully documented letter with a most helpful review of all the action taken by the Department of the Attorney General.

Basically, it stated that on a previous occasion in 1958 a solicitor for the Attorney General's Department had advised the complainant:

> "That nothing is disclosed of a criminal or governmental nature or at all which would enable the Attorney General or his Department to intervene."

It was also revealed that the complainant had had numerous discussions with senior law officers of the Crown and all of them had advised her that there was no status for the Attorney General or for any other Government officer or department to intervene on her behalf to enable her to reach a settlement with the City of Edmonton with regard to her dispute with the City.

The Attorney General also advised me that there was no written record in his Department that consideration was given by the Cabinet to the complaint of the complainant or that the Judge's report was accepted or rejected. Furthermore there was no record that the reports on this case had been discussed by Provincial authorities with the municipal authorities.

Finally the Attorney General in summation gave me his own opinion which was as follows:

> "In my opinion the fact that the inquiry was ordered by the Attorney General for the Province does not create any status for the Attorney General to take any action that is not authorized by the legislation."

67-400-3 (Continued)

I, of course, accepted completely the opinion expressed by the Attorney General, and indeed I would have had no other course. The Attorney General, however, was kind enough to refer the matter to the City for its consideration and as a result of his referral, I have had discussions with the appropriate officials of the City of Edmonton.

There was, of course, no requirement for the City of Edmonton to discuss this case with me inasmuch as the Attorney General had clearly indicated there was no Provincial responsibility. None the less, I had a most thorough discussion of the background of this case. I was, of course, in no position to make any recommendation, and indeed it would have been presumptuous of me to have done so, considering that I have no jurisdiction over those matters which are entirely within the jurisdiction of the City.

At this writing, this is where the case rests. I have had to advise the complainant that I can do nothing for her. The rather strong opinions expressed by Mr. Justice Porter in his capacity as Commissioner, have been neither accepted nor rejected at any level of government, despite the fact that other criticisms made by the same Commissioner, where the City's own interests were involved, have long since been acted upon by the City.

While I must therefore leave this complaint suspended in the same vacuum in which I found it, I cannot overcome a certain melancholy.

We speak of our system of "responsible" government, and yet no segment of that so-called "responsible" government is apparently prepared to step forward when accusations of injustice to an eighty year old woman are made by a Commission, which was appointed by Government, and to either accept the criticism or defend its actions, where the public can see it done.

68-110-43

The complainant in this case was associated in various enterprises with a friend, who in 1967 was arrested in an Alberta city and charged under section 32, subsection (2) of The Food and Drug Act. Bail was set at the sum of $500 cash, and the complainant responded to the need of his friend and posted the $500 cash bail himself.

The accused was scheduled to appear at a later date, which he did and a further remand was granted. However, on the date upon which he was due to appear again, he had, as the complainant described it to me in his letter, "due to unfortunate circumstances been arrested again," in another city, in another province. This second arrest was on different charges, and due to the previous charges against the accused, no bail was allowed.

Unfortunately, the complainant himself a few days later, was taken into custody on other matters, and on the date upon which the accused should have appeared in the Alberta city, both he and his bondsman were in custody together, serving a sentence in gaol in the other province.

Although the complainant declares that he endeavored to communicate with the Court in Calgary, to advise it of his predicament, apparently such advice did not reach the Court, and bail was eventually estreated. It cannot be denied that the complainant and the accused had the best possible reason in the world for not being available on the date of the trial, for they were both serving time elsewhere.

The complainant advised me that he made a number of other efforts by mail and affidavit to recover the bond which he had put up for his friend. He claims that he wrote to the Crown Prosecutor in the city where the trial was to have been held, without results. He then states that he wrote the Attorney General's Department in Edmonton, again enclosing affidavits and explaining the circumstances, but received no reply.

He wrote a further letter to the Attorney General's Department and this time received an acknowledgment from a solicitor of that Department who was to look into the matter. He complained of lengthy delays in getting an answer, but I have satisfied myself that the solicitor for the Department was, in fact, endeavoring to clarify the situation.

It was at this point that the complainant brought the matter to my attention. I indicated to the Deputy Attorney General my intention of making an investigation purely on the correspondence and administrative factors of the case. I, of course, had no jurisdiction whatsoever to investigate or comment on the action taken by the Courts, or indeed on the action taken by any of the solicitors acting for the Crown in these proceedings.

It might be added that the complainant had solicitors from the other province endeavoring to assist him, unsuccessfully, and there were a very obvious number of legal complications, one of which apparently was the fact that there is no provision in the Criminal Code for an appeal from an Order of Forfeiture.

There was also some question as to whether the forfeited bond should have gone to the Provincial or Federal Government, for the Criminal Code requires that notice of the hearing of the bail forfeiture application is sent to the bondsman and the accused by registered mail to their addresses as shown on the recognizance. Such procedure was followed in this case.

68-110-43 (Continued)

However, both the bondsman and accused had had an involuntary change of address, which presumably they were not anxious to have come to the attention of another Court, in which one of them was due to appear on another charge.

After considerable correspondence with the law officers of the Crown, two possible remedial steps were suggested to me. First, with the consent of the Presiding Judge who initially granted the Forfeiture Order, an ex parte Application could be made before him to determine this issue. Alternatively, an ex gratia payment could be made to the complainant in the sum of $500.00.

The second procedure appealed to me inasmuch as the $500.00 which had been forfeited had now been forfeited to the revenue of the Province, and it appeared to me that perhaps an ex gratia payment would be the simplest solution.

However, I placed the matter in writing before the Attorney General and asked him to consider one or other of the two solutions.

I was in due course advised by the Deputy Attorney General that the Department had made application to the Provincial Treasurer for a remission of the sum of $500.00 forfeited from the complainant and that the cheque would be sent to my Office for transmission to him when it was received.

This would have seemed to have concluded the matter, but there was one rather amusing postscript. Immediately after receiving the letter from the Deputy Attorney General advising that the $500.00 would be forthcoming for the complainant, I received a very bitter letter from the complainant, who was still in gaol in the other province. He accused me of persisting in delaying proper return of his money and announced his intention of making an Application to the "Queen's Court Bench" in Alberta, demanding that the responsible party show cause why he is not acting in his official capacity on this matter.

It was his further intention to demand to be present at the hearing to present his own argument. His travelling expenses were to be borne by the Government and also the cost of what he referred to as "custodial inconvenience".

He finally advised me that if I had any further suggestions to make, I could consider them irrelevant, for as he said, "I am althrough corresponding on circuitous suggestion." I was then warned that application to the "Queen's Court Bench" would be filed in exactly ten days. A copy of this letter was forwarded to the Clerk of the Magistrate's Court and to the Crown Prosecutor in the City where all the trouble had originally began.

I therefore wrote the complainant advising him that I had successfully concluded my investigation into his complaint and that I was now in receipt of a cheque in his favour from the Department of the Attorney General in the amount of $500.00. I pointed out however, that just as I was preparing the letter to him advising him of his good fortune, I had received his letter announcing his intention of filing an application to the "Queen's Court Bench". I reminded him that if, of course, it was his intention to proceed with an application to the Court, I would close my file and return the cheque to the Department of the Attorney General. I concluded by asking him to let me know his decision within ten days.

I did not have to wait for an answer for the necessary ten days. A letter was received in much less time which opened with a fulsome eulogy on the efficiency of the Office of the Ombudsman for the Province of Alberta, and expressions of deep thankfulness for the action taken on behalf of the complainant.

68-110-43 (Continued)

The meat of the letter however, was contained in this sentence which read:

> "You may consider this letter cancellation to the application to the Queen's Bench Court. All I am interested in now is the return of the $500.000 and not anymore legal turmoil. So please forward the cheque and again my deepest thanks."

I therefore forwarded the cheque to him at the Gaol where he is incarcerated, where it will be available to him upon his re-entry into society.

68-130-22

The investigation of this complaint was a rather peculiar one in that the complaint arose from a misunderstanding and although eventually a number of Government Departments and Agencies were involved, all of them were only too anxious to conclude the complaint satisfactorily, but all were faced with problems of Departmental jurisdiction. In the long run it may have been that the Ombudsman's Office was able to be the catalyst in the successful solution which was eventually evolved.

The complaint was brought to my attention by the Solicitor for the complainant, who is a supplier and manufacturer of prostheses.

The patient for whom this device was required, had had a long series of treatments for basal cell carcinoma over many years including multiple courses of radiotherapy for multiple recurrences. Despite plastic surgery, a facial prosthesis was an absolute essential if the patient was to appear in public or conduct a normal life.

The patient had for some time been given financial support by the Canadian Cancer Society in connection with the ailment, and there were some differences of opinion between the Society and the patient.

Apparently a letter written by a Doctor to the supplier of the necessary prosthesis which indicated that the patient needed a new one was taken by the supplier to mean that financial authorization had been given for it. Such was not the case.

The patient has at various times been the recipient of Public Welfare.

Eventually when the work was completed, and when the supplier submitted his bill he ascertained that the division of Cancer Services did not authorize it.

This Office carried out further investigation and ascertained that this particular prosthesis was not covered by the Alberta Health Plan. Further inquiries indicated that the Alberta Cancer Hospitals Board might begin accepting responsibility for such type of device as a matter of policy, but that it was unlikely that the policy could be made retroactive. Apparently the provision of this prosthesis could not be covered under Provincial Welfare either, although the Department of Welfare made a very thorough exploration of the possibilities of taking on this responsibility.

There was general agreement in all Departments that without such a prosthesis the patient would have to remain confined to home. There was general agreement that it should be paid for, and there was general agreement that the patient was in no financial position to pay for it. It was also understood that the misunderstanding at the beginning, was a genuine misunderstanding. Apparently the patient believed that the letter received from the Doctor authorized the supplying of the prosthesis and the supplier was also of the same opinion. However, an analysis of the Doctor's letter does not make it nearly that definite.

I had now come to the conclusion that somewhere there should be responsibility accepted at least on humanitarian grounds, if no other could be found.

It was brought to my attention that a policy had been established by the Provincial Cancer Hospitals Board for payment of prosthetic work authorized

68-130-22 (Continued)

by the Board. An Investigator from my Office had discussed this matter fully with the Executive Director of the Provincial Cancer Hospitals Board and had received every co-operation.

I therefore made a submission to the Executive Director of the Provincial Cancer Hospitals Board indicating my knowledge of the established policy, and asking for reconsideration of the claim submitted by the supplier on behalf of this particular patient.

I realized and I mentioned too, that the Board had not previously found it possible to consider a retroactive payment for a prosthesis which had been supplied without authority. I asked for a sympathetic consideration of an exception in this case in view of the desperate situation of the patient, and I should say that I asked this with some knowledge that a sympathetic review of the case would be made.

In June of this year I was advised by the Executive Director that the case would be taken before the Finance Committee of the Provincial Cancer Hospitals Board at their next meeting. It was pointed out, understandably, that under the rather unusual circumstances surrounding the case it would require Board consideration and authorization before responsibility for the account could be accepted, considering that the Board had not authorized the account.

I was greatly relieved early in July to receive a notification from Dr. J. R. Ibberson, C.M., Executive Director of the Provincial Cancer Hospitals Board, that based upon a special motion of the Provincial Cancer Hospitals Board, payment for this account in the amount of $250.00 had been approved. The letter indicated that a Special Board motion was required since the Provincial Cancer Hospitals Board had not originally authorized the account. The letter further indicated that the gesture was made in response to the Ombudsman's Office and was also based on the fact that the patient was and is presently a welfare recipient.

As mentioned at the beginning of this summary this was a matter in which all Departments were willing to do what they could to help, but were faced with their own terms of reference and responsibilities. In the long run it took a humanitarian gesture to resolve the matter and to assure that the supplier of the equipment, who was the innocent bystander in this case, was not deprived of proper payment for his work. I myself and the Investigators of my Office who were involved, were as gratified about the successful outcome of this particularly unfortunate case, as we have been about any we have investigated.

68-140-15

This case illustrates the many cases where the Ombudsman has no jurisdiction, but where a considerable amount of time is involved in the endeavor to assist a complainant to understand why certain things have happened, and that there is a good reason for them. Frequently these are cases where very obviously no redress is indicated, and where the explanations which the complainant has received are rather complex, to a point where he does not understand what he has been told. The result is that he feels he has been done an injustice.

In this case the complainant was involved in a very severe car accident. He was seriously injured and required considerable hospitalization and medical care.

He subsequently took legal action against the other party. He was represented by counsel, and he obtained a judgment of something over $10,000.

For some reason he came to the conclusion that this money was clear, and without any deductions. However, he eventually found out that this was not the case. Over $1,500 was deducted from the amount by the Province of Alberta to pay for his hospitalization, and quite properly and legitimately so. His legal fees, which were fair and reasonable, were also deducted from the amount. There was something in the neighbourhood of $600 to repair his car, and other money for incidentals.

The end result was that the complainant received actually a little over $6,000 of the total amount, and he felt that he should have had the whole amount clear and free of encumbrances.

His complaint was actually against the Government of the Province of Alberta, which he felt had no business deducting the amounts for hospitalization.

He was referred to this office by a solicitor, and eventually an appointment was made with him.

He brought all his correspondence with him to the meeting, and the Investigator for the Ombudsman's Office was able to explain to him adequately, and to his knowledge and understanding, how the monies had been disbursed, and the reasons therefor.

It is interesting to note that he was prepared to accept an explanation from the Ombudsman's Office that monies deducted by the Government and monies paid to his lawyer as well as the other expenses, were reasonable and in keeping with the policies and practices which were in effect at the time. At the end of the discussion, he appeared quite satisfied with the explanation, and he stated he did not wish to press the issue any further.

Although this complaint was concluded under the heading of "No Jurisdiction", a considerable amount of time was involved in easing the complainant's mind, that he had not been unfairly dealt with.

While there may be no statutory provision that requires the Ombudsman's Office to provide this service in cases where there is no jurisdiction, none the less I feel that it is inherent in the very nature of the position I hold, that there is an obligation to assist the public in this manner when it can be done.

DEPARTMENT OF INDUSTRY AND TOURISM

68-150-1
69-150-2

This complaint originated with a Co-operative registered as the Centennial Housing Co-operative Limited of Edmonton. Normally in writing these summaries for this Annual Report, the names of persons involved, and organizations, are not used in order to avoid undue attention being drawn to the individuals concerned. In this case however, the complainants had already made their complaint public through the Press, and furthermore, as it would be most difficult to write this report without identifying the Co-operative involved, the name is used.

Basically the allegation on the part of the Centennial Housing Co-operative Limited was that the Alberta Commercial Corporation, an agency of the Government of Alberta, signed an agreement with the Co-op in 1966, providing the sum of up to $500,000 with interest at the rate of 4 per cent per annum. This sum was provided for the purpose of providing housing for persons of Indian and Metis ancestry.

Subsequently, Order-in-Council 450/67 was approved, as a result of which the Alberta Commercial Corporation refused further advances to this particular Co-op beyond approximately $300,000, which had already been committed.

The Centennial Housing Co-operative alleged that there was a binding obligation on the Alberta Commercial Corporation to complete the agreement to the full amount of $500,000. The Co-op further alleged that there was a moral obligation on the part of the Corporation to complete the agreement.

Following a considerable investigation, an informal hearing with the members of the Executive of the Centennial Housing Co-operative Limited was held in the Ombudsman's Office, and also attended by the Solicitor to the Ombudsman.

The investigation revealed that as a matter of Government policy, a decision had been taken some time previous to extend Government assistance in the financing and establishing of temporary and permanent housing for Indians and Metis in the Province of Alberta. Several Orders-in-Council were involved, but the important one which cancelled out its predecessors, was Order-in-Council 501/66 dated March 21, 1966.

The intent of the Government can, I believe, be ascertained from some excerpts from the preamble to that Order-in-Council. For instance, the preamble says:

> "*WHEREAS* the Government has undertaken a program for providing community development services *for the purpose of improving the social and economic position of Indians and Metis within the Province;* and
>
> *WHEREAS* the Government, as a major part of that program, is providing assistance in the financing and establishment of temporary and permanent housing in the knowledge that the recovery of that financial assistance and administration costs may be less certain than in the case of other loans made by the Government;" etc. etc. etc.

The same Order-in-Council gave the implementation of its policy to the Alberta Commercial Corporation, and among other things specifically designated several powers to the Corporation, particularly the following:

> "to make loans to co-operative associations having as one of their objects the provisions of temporary or permanent housing to Indians and Metis within the Province, *upon such terms and conditions and upon such security as the said Corporation may determine.*"

Subsequently various sums were allotted and eventually the sum of up to $500,000 was decided upon for the one Co-operative mentioned above, namely the Centennial Housing Co-operative Limited.

Subsequently, as a matter of Government policy, which is entirely outside the jurisdiction of the Ombudsman, Order-in-Council 450/67 was approved and ordered. One of its provisions, namely provision 2, in effect terminated the duties and functions previously assigned to the Alberta Commercial Corporation in the metropolitan areas of Edmonton and Calgary.

Inasmuch as the agreements entered into between the Centennial Housing Corporation and the Alberta Commercial Corporation dealt entirely with the provision of housing within the metropolitan Edmonton area, the result was that no further funds were available to the Co-operative for its operations within the City of Edmonton.

However, the Order-in-Council specifically provided that the decision did not affect any loans made by the Corporation prior to the date of the Order-in-Council. It was therefore as a result of this termination of functions within the Edmonton area that the Co-operative complained to the Ombudsman that the balance of $200,000 in the agreement should be advanced.

It is my understanding that the view of the Alberta Commercial Corporation and the Department of Industry and Development (as it was called at that time) was that as the amount authorized was "to a maximum of $500,000", there was nothing to prevent the agreement being terminated at a lesser figure than $500,000.

At this stage of the investigation, I came to the opinion that as the original program was brought into being as a matter of Government policy, the Ombudsman had no jurisdiction whatsoever to involve himself in the merits of that Government policy.

The investigation also revealed that the Alberta Commercial Corporation had been duly instructed by the Government to cease the duties and functions previously referred to, in the metropolitan area of Edmonton, as a result of Order-in-Council 450/67. In my view, the Alberta Commercial Corporation had no other recourse but to accept and act upon the instructions it received from properly constituted Government sources, and I therefore found the complaint against the Alberta Commercial Corporation for failing to fulfil the agreement, not justified.

However, during the investigation several matters of administrative procedure on the part of the Alberta Commercial Corporation came to my attention, to which I believe some reference should be made.

To deal first with the administration of the agreement with the Centennial Housing Corporation, it should be pointed out that at the time the agreement

came into effect, the Secretary to the then Managing Director of the Alberta Commercial Corporation was a lady, who shortly after was to become Secretary-Treasurer of the Centennial Housing Co-operative Limited. This occurred shortly after the administration of the Government policy being directed to the Alberta Commercial Corporation, at which time the Centennial Housing Co-operative was formed.

This lady, at the time my investigation commenced, had progressed from Secretary-Treasurer to President of the Centennial Housing Corporation.

The Centennial Housing Corporation made application to take advantage of the Government policy, resulting in an agreement between the Centennial Housing Corporation and the Alberta Commercial Corporation.

The lady referred to, at that time Secretary to the Managing Director of the Alberta Commercial Corporation, was extremely active in the forming of this Co-op, and it should be noticed that her activities were encouraged and assisted by the Alberta Commercial Corporation.

The result was that a situation arose where she, as the Secretary-Treasurer of the Co-op, was writing letters to at least one Minister of the Crown and to the Managing Director of the Alberta Commercial Corporation, in effect her employer.

She was, at the same time, typing replies dictated in answer to her own correspondence. She was therefore, as Secretary to the Managing Director of the Alberta Commercial Corporation, in a position to know all aspects of the application of her own Co-op for an agreement. In other words, from a point of view of access to information, she had a foot in both camps.

Indeed in one instance, in the absence of the Managing Director, and in the absence of the next senior official, she actually signed an interoffice directive dealing with the affairs of the Co-op of which she was Secretary-Treasurer.

It is freely admitted by the officials of the Corporation and the Department that this lady was the prime mover in organizing the Centennial Housing Corporation and, as mentioned before, with encouragement and support from the then Managing Director of the Alberta Commercial Corporation.

A considerable number of the members of this Co-op, and the majority of the Executive, were her own blood relatives and some of these acquired houses through the plan.

It is perhaps unfortunate that of all the sums granted for houses, not only to the Centennial Housing Corporation, but to every other housing co-operative of a similar nature, this lady's own house had the highest final cost, namely $21,125.42.

I should make it very clear that the cost of this house was brought about by the necessity of changing contractors during the construction of the house, and there should be no suggestion that the price of this house came about as a result of any improper act done by any person.

I should also point out that in her dealings with the Alberta Commercial Corporation on behalf of the Centennial Housing Corporation, while she was Secretary to the Managing Director, there is no suggestion whatsoever that anything of an improper nature was done by her. In fact, she was fully supported by the Corporation in her activities. She subsequently, as a result of disagreements which are no part of this inquiry, terminated her employment with the Corporation and eventually became President of the Co-op.

Hindsight is, of course, 20 - 20 vision, and I believe there was some feeling at the time that this lady should not be barred from the program simply because she was an employee of the Corporation. However, when she made her complaint to the Ombudsman, she also went to the Press, and there was some publicity as a result.

However admirable the motives may have been at the time in permitting the Secretary of the Managing Director of the Corporation, as an executive member of a Co-operative doing business with the Corporation, to obtain financing for housing for herself and her blood relatives, at rates of interest far lower than the standard rates; the situation does unfortunately leave itself open to unpleasant innuendoes from those who might wish to be unkind.

Add to this situation the fact that the lady's own home eventually, and quite innocently, turned out to be the highest priced one of any authorized under this plan anywhere in the Province, and it does nothing to enhance the picture.

It might also be mentioned that the application which was accepted for this particular home was in the name of the lady's husband, who himself has no Indian blood and came to Canada as an immigrant from a foreign country. The policy was that as long as there was Indian ancestry on the part of either spouse, an application could succeed.

Obviously one of the basic qualifications for obtaining housing at these modest mortgage rates, was the requirement to be of Indian or Metis ancestry. It was ascertained that the Alberta Commercial Corporation had not itself made any inquiries, other than to the Co-op, to establish the Indian ancestry of either the husband or the wife, to whom funds were granted. No documentary assurance of such ancestry was ever filed with the Corporation.

I therefore inquired of the Executive of the Co-op, as to what proof it required of ancestry, so that it itself might be satisfied that those receiving 4 per cent mortgages were of Indian and Metis ancestry.

I was advised that all the members knew each other personally, and that the Co-op had not required any such thing as an affidavit or other written assurance from any of its members that they were indeed of Indian or Metis ancestry. Therefore, at the time I concluded my investigation, there existed no documentary proof whatsoever that any of the persons who received this low-cost housing were of Indian ancestry or the spouse of someone of Indian or Metis ancestry.

Additionally, it seems apparent that the Corporation did not require from the applicant, evidence of his financial status before approving an application. The salary and earning capacity were of interest to the Corporation but apparently there was no interest in what funds, property or other reserves he might have.

In at least two cases, successful applicants were already owners of other homes. I think this latter fact is important, in view of the stated intention of the Government in its Order-in-Council 501/66 where it says:

> "of improving the social and economic position of Indians and Metis within the Province."

The combined income of the complainant and her husband was approximately ten to eleven thousand dollars per annum at that time. A relative of hers, who was another successful applicant, was a school teacher with a salary of

$6,500 per annum. At that time he was in possession of another home valued at approximately $11,000, upon which he was making payments.

When this gentleman's application for a house under the plan was approved, it was agreed he would dispose of his other home, and that 25 per cent of the proceeds of the sale of that first home would be applied to the purchase of the home through the Co-op. The balance of the proceeds would go towards the improvement of the home, moving costs, and costs of appraisal. The complainant had herself by letter to the Alberta Commercial Corporation on June 14, 1966, assured the Corporation of this agreement.

There was approximately seven to eight thousand dollars still owing on her relative's first house. He did not sell that house. His application for a house under the Government plan was approved effective September 1, 1966. Over one year later he still was the owner of his first house, which he had rented, and upon which, he has admitted to me, he continued to make payments on the mortgage. He was therefore, as late as November, 1967, improving his equity monthly in his original home and at the same time, purchasing a new home at an enviable 4 per cent mortgage.

When the solicitors for the Corporation pressed him on the matter of the house, he indicated he had been unable to sell it, although he had advertised it. It was ascertained that he had it listed for only about three months out of the entire year.

When the Corporation, through its solicitors, became insistent, he sold his first house to his mother for the sum of $10, and forwarded a cheque for 25 per cent of the proceeds, namely $2.50, to the Alberta Commercial Corporation. When my investigation concluded this cheque still remained uncashed.

I caused a search to be made at the North Alberta Land Registration District of the title of this property, and found that it had been sold by this gentleman's mother by a Transfer signed February 29, 1968, for the sum of $10,600.

Thus the property which apparently the school teacher had been unable to sell for over a year, was very quickly disposed of within something less than four months after his mother purchased it from him for the sum of $10, for a price of $10,600.

I may say that when the Executive of the Centennial Housing Corporation appeared before me, the teacher referred to, raised the point that the Government and the Alberta Government Corporation had a "moral" obligation to fulfil its agreement with the Centennial Housing Corporation. In the light of this high moral tone, I questioned him concerning his mother's apparent superior qualities of salesmanship to his own.

He rather unhappily admitted that he had received the net proceeds from the sale of his house by his mother, which he had deposited in the bank in his account. I must say that he did not seem anxious to pursue the question of moral obligation on the part of the Government or the Corporation after this disclosure.

The Government channel for the affairs of this Co-op and others like it in this type of project is now to the Alberta Housing and Urban Renewal Corporation.

Therefore, my final conclusions as mentioned before, were that first, I had no jurisdiction insofar as the original Government policy and Order-in-

68-150-1 (Continued)
69-150-2 (Continued)

Council were concerned, and secondly, the Alberta Commercial Corporation in declining to advance further funds under its agreement with the Centennial Housing Corporation was acting directly under the instructions of the Government. The complaint against the Alberta Commercial Corporation is therefore not justified.

I should add that the lady in question, who represented the Centennial Housing Co-operative Limited, also made a further complaint on her own behalf, complaining of a delay in the transfer of title of the property of her husband, purchased through the Alberta Commercial Corporation, from the Corporation to the Co-op. Investigation revealed that the transfer of title was made in fact, six days after she made her complaint, and the complaint therefore had been rectified without any action being required by the Office of the Ombudsman.

I received great assistance in this investigation from the present Deputy Minister of Industry and Tourism, Mr. R. Martland, and from the present Director of the Alberta Commercial Corporation, Mr. Picard. Although neither of these gentlemen were directly involved in the administration of this particular Government plan, they were most helpful in bringing to my attention pertinent files, and in explaining departmental procedures.

68-170-2

The complainant in this case is a farmer. In the Spring of 1967, he had done some burning on his property without obtaining a proper permit for so doing. The fire got out of control and it became necessary for officials of the Department of Lands and Forests to send a crew onto the property to suppress the fire.

In due course, the complainant was charged before a Magistrate for burning without a permit and was convicted in June of 1967.

A fine of $50 without costs was imposed, or in default, ninety days in prison.

However, the costs incurred by the Department of Lands and Forests in extinguishing the fire had been $362. The Department of Lands and Forests would have been justified in taking action in a civil court to obtain recovery of this expenditure. However, during the proceedings and conviction mentioned above, the Magistrate took it upon himself to assess the $362, incurred by the Department of Lands and Forests, on top of the fine which was imposed for burning without a permit, making a total of $412. The Attorney General's Department at a later date expressed the opinion that the Magistrate exceeded his jurisdiction in assessing this amount of $362.

Additionally, despite the fine of $50 plus the amount of $362 for fire suppression, making a total of $412, which the accused was called upon to pay, there was for some reason, which remained mysterious for some considerable time, an additional $50 tacked on. The result was that the convicted man paid a total of $462, which was in due course forwarded to the Attorney General's Department. It was following these proceedings that he complained to the Ombudsman.

When the news of the conviction reached the offices of the Department of Lands and Forests, that Department asked its local representative for a full report. A report was received and given very careful attention.

The Department of Lands and Forests decided that, in view of the financial circumstances of the complainant, and due to the fact that the Magistrate had exceeded his jurisdiction in ordering the payment of fire fighting costs, which should have been collected through civil processes, this might be a case in which it would be propitious to temper the wind to the shorn lamb.

In the meantime, the solicitor for the complainant had appealed the case, which he lost. The Department of Lands and Forests offered to accept $181 in full settlement for the fire fighting costs, which offer was accepted for the complainant by his solicitor. This amount was, of course, half of what it had cost the Department to fight the fire, and was a most generous offer of settlement.

However, at about the same time, the Lands and Forests Department discovered that the total amount of $462 had already been paid into the Attorney General's Department, and that the legal opinion of the Attorney General's Department, was that the Department of Lands and Forests should not take the $181 out of this money, but should collect directly from the complainant.

It was the intention of the Attorney General's Department to return, by Order-in-Council, to the complainant, the sum of $362. This was the amount assessed by the Magistrate contrary to his jurisdiction, in the opinion of the

68-170-2 (Continued)

Attorney General's Department, and which amount was to cover the cost of fighting the fire by the Department of Lands and Forests.

Thus, out of the original $462, which the complainant had paid into Court, and which had been forwarded to the Department of the Attorney General; $362 was to be refunded by the Department of the Attorney General, as it was, to the complainant. This left the sum of $100 in the possession of the Department of the Attorney General, and as the fine had been only $50 and no costs, I was somewhat at a loss to understand how the Department had obtained and was holding an additional $50.

It should be added, the Department of Lands and Forests, when it had settled for $181 with the solicitor for the complainant, had also obtained an Order-in-Council. There therefore appeared to be, for a short time at least, two Orders-in-Council, both in effect at the same time—one authorizing the refunding of $362 to the complainant by the Attorney General's Department, and the other authorizing the retention of only $181 by the Department of Lands and Forests from monies which it had never received.

The complainant received back from the Attorney General's Department the whole $362 which had been improperly collected from him for the costs of fighting the fire, and the Department of Lands and Forests was out the $181 for which the complainant's solicitor had agreed to settle. I therefore could not but agree with the statement of the Departmental solicitor for the Department of Lands and Forests, in his letter to me, when he said, "I am sure that he has been more than fairly treated."

There did, however, remain the one matter of the mysterious extra $50 which had been collected from the complainant at his trial. With everything else out of the way, he had been fined $50, and yet had paid $100.

I raised this question with the Department of the Attorney General, which carried out an inquiry of its own, and advised me in due course.

It appeared that at the time of the trial before the Magistrate, the Magistrate had also collected an additional $50 from the complainant, being Security for Costs of Appeal in the amount of $50. That amount, the Magistrate had issued by cheque to the solicitor for the complainant.

Following the unsuccessful appeal of this case, the Clerk of the Court, this being the higher Court where the appeal was heard, refunded to the complainant's solicitor an amount of $50 for Security of Costs. It thus appeared that the complainant's solicitor was now in receipt of $100 refund for refund of Security of Costs, when in fact he should have only been in receipt of $50. The Department of the Attorney General explained to the complaint's solicitor the origin of his unexpected windfall, and he returned $50 to the Clerk of the Court which was in due course refunded to the complainant.

Having satisfied myself that the complainant had now received back all monies which had been extracted from him, except the $50 fine which he was properly assessed, I wrote the complainant, asking his confirmation to the effect that his complaint had now been concluded to his satisfaction. I have received no reply, which fact I put down to his understandable confusion, which at some stages of this investigation, I shared with him.

68-170-14

The complainant in this case is an old pioneer, whose father brought him to this Province in 1889 from the United States, with two carloads of sheep. He settled in Southern Alberta. He is now approximately 85 years of age and is still very active in large sheep ranching operations.

By his industry, business acumen and efforts he became a successful man and thus must be expected, as always happens in cases like this, to become an object of some envy on the part of some neighbours and residents. He is highly spoken of by many others.

During the intervening years, he has obtained ownership of a considerable quantity of land. Additionally, he owns and operates a General Store which employs over twenty people. All of this has been achieved by his own industry and effort.

Apparently he first started to farm the area which is now his deeded land and not long afterwards took over a large grazing lease from one of his neighbours, when the latter encountered financial difficulties. It is important to this complaint to note that the transfer of this lease was effected with the consent and co-operation of the Department of Lands and Forests. The lease was eventually transferred to the complainant's name following a meeting between himself, his neighbour and members of the Department of Lands and Forests.

The complainant has held that lease since that time until the largest portion of the leased area was taken away from him, when his contract expired in 1964. This was approximately 10,000 acres on a twenty year lease and it was converted to the use of other grazing Associations.

The Departmental file reveals that there were determined efforts by other interested persons and groups in the area to obtain much of the rest of this man's leased land for their own purposes. The interested persons and parties included a Grazing Association and other individuals as well.

Although he had lost approximately twelve sections of leased land, which he had held for some years, an area located immediately South of his deeded land was given to him on a ten year lease and the area immediately North and East of his deeded land was given back to him on a one year permit. The total renewal area consisted of approximately 2293 acres of land.

On that land the complainant had his ranch buildings consisting of a four room stuccoed house, three bunkhouses, two large sheep sheds, three barns, a garage and shop, four granaries, a feed bin, coal shed, chicken house, dam and well, plus two other very large sheep sheds. Approximately 293 acres of the land included in the lease was cultivated.

The area about which this complaint is concerned is the area which has all the buildings on it, and upon which the complainant relies for almost his entire ranching operation. The complainant was advised by the Department of Lands and Forests of the termination of his Permit on June 30th, 1969. Although the actual permit expired January 1st, it had been intended that he vacate the land by the end of June, 1969.

The complainant protested to the Ombudsman the termination of this last mentioned lease, and asked the Ombudsman's intervention to obtain for him a further extension of up to five years.

68-170-14 (Continued)

As I understood it, the Department had intentions of adding that land, once it was free, to an area which is presently under control of a local Grazing Association.

Suggestions had been made to the Department that there was opinion in the local area that the complainant could successfully start an operation elsewhere. It seemed unlikely to me that a man of 85, who had put his whole life into his work, should be asked to start completely afresh and to construct new buildings and to dig new wells in an area where we know the accessibility to water is much more difficult than in the area he then held by permit. It seemed to me that the alternative was a cruel impossibility.

My inquiries endeavoured to ascertain what urgency existed to acquire this particular land from an 85 year old man who had worked it for many many years.

I caused inquiries to be made in the local area and it appeared that his major sin was to have been successful and consequently an object of envy. It was also suggested that as he was a wealthy man, and this is not denied, now approximately 85 years of age, he should be able to get along quite well without this particular piece of land.

It was my own view, that if money and economic security were everything in life, there might be some merit in that comment. However, it is the history of this Province, and the history of the people who built it, that the pioneers took more pride in what their hands had built than they did in the ultimate economic returns.

Additionally, the complainant seemed to have confounded the experts by not only living to 85 years of age, but by being remarkably hale and hearty in his riper years. He is obviously in full possession of his faculties, and he was still able to operate successfully this very large sheep industry, as well as a large commercial venture in a nearby Town.

The Departmental records do not indicate that he has ever fallen down in the handling of his lease. His payments have been prompt and his business dealings with the Department have been in good faith.

Nor could it be suggested that he had taken everything and given nothing to the land and to the community where he had made his home for so very many years. He is an employer of approximately twenty persons in his General Store and he also employs a number of men in connection with his sheep raising operations. In wages connected with his sheep raising operations and in purchases of barley, wheat and oats from other farmers in the locality it is estimated that he has spent over $130,000.00 in one year, all of which has gone to the local economy. This is more than a modest contribution to the community in which he lives.

There were other matters which I considered, such as the fact that compensation would have to be paid for the permanent buildings at considerable expense to the taxpayer, but it is submitted that this would have to be done sometime in any event.

It was my view that this particular case could not be considered purely from a point of view of economics. In my presentation to the Department I admitted that the majority of men would be happy to retire long before 85 years of age if they were in the complainant's financial condition. I did point out however, that we were dealing here with one of the last of a vanishing breed

of man whose life and pride and interest was in his work above all else. We have this Province, thanks to men like that.

I had obtained from the complainant his assurance that an additional three years continuation of the lease would be satisfactory to him.

With all the information concerning this complainant's past, and his life of hard work which I had been able to collect through investigations carried out by my own staff, I was additionally assisted by a very great deal of information in the possession of the Department of Lands and Forests which was voluntarily and helpfully made available to me.

In addition I read once again the "WHITE PAPER ON HUMAN RESOURCES DEVELOPMENT of March 16, 1967". I paid particular reference to these two following quotations.

> "Human resources will be treated as being intrinsically more important than physical resources."
> "Prior consideration will be given to human beings *individually* (persons), rather than to human beings *collectively* (society)."

Fortified by these principles, I could not conceive that the grazing requirements for a few more head of cattle or sheep on this land, were of sufficiently drastic importance, that the authorities of this Province would in good conscience turn this old pioneer off the land that he had worked and built for so many years. He is 85 and his years of active work are not too many. It seemed to me that there surely must be a debt to those people who built this Province, a debt which would be morally wrong to repudiate.

At this stage I would like to point out that I had the utmost co-operation and a most sympathetic hearing at all times from the Deputy Minister and the Senior officials of the Department of Lands and Forests. I fully realized their position and the fact that they had interests in the area other than this single individual, which they must consider when trying to arrive at a fair solution and an answer to the recommendations which I had made.

In the end the complainant was advised by the Deputy Minister that the Department was prepared to issue him a grazing permit on the lands included in his former Grazing Lease under certain conditions. These conditions dealt with the date of termination which was approximately three years. It was stated that the Permits would be issued for one year at a time and that any renewal would be granted to the complainant in his personal capacity only. Another condition was that the Permit could not be assigned.

The complainant would have to agree to vacate and remove all livestock and movable improvements from the lands included in the Permit before the termination date of that Permit, and there were certain conditions as to the method of arriving at a fair valuation of permanent improvements on the land which could not be moved.

I suggested one or two minor amendments to the conditions which were immediately and sympathetically accepted by the Department.

The complainant expressed his thanks to me for the action taken by the Ombudsman's Office in this matter, and I should be remiss in concluding this summary if I did not point out that the Department came to the decision to renew these leases, well knowing that it could expect to be faced with a considerable amount of criticism at the local level by persons, who had aspirations to acquiring leases on the property in question.

68-210-18

This complaint was made by a married man, who complained that certain medical and hospital accounts incurred by his mother prior to her death, were properly the responsibility of the Pensions Division of the Public Assistance Branch of the then Department of Welfare, and that the Department had reneged on its responsibilities.

The deceased lady, an Old Age Pensioner, had been in receipt of Old Age Assistance in the amount of $75; Guaranteed Income Supplement from the Province of Alberta in the amount of $30 monthly, and a small pension from other sources in the amount of $37.51 monthly.

She had decided to visit relatives in another province but after she had been in that province for four or five months, she developed an illness to which she eventually succumbed. The family decided to return her, during her illness, to this Province for the altruistic reasons, that they were under the impression that her hospitalization and medical bills would be covered by the then Social Welfare Department. Their belief was that her receipt of the Guaranteed Income Supplement entitled her to hospitalization and medical coverage. This had formerly been the policy.

The complainant stated that prior to the return of his mother he had been in touch with an official of the Department of Welfare whom, he stated, assured him that his mother, who had been struck off the rolls of those receiving the Guaranteed Income Supplement when she left the Province, could be reinstated should she apply on her return. On this assumption he made arrangements to place his mother in a nursing home in an Alberta city, where shortly afterward, her illness developed to the degree that she needed hospitalization. She subsequently passed away in early 1967.

A small Death Benefit Policy was used to cover the necessary burial expenses, and her last month's Old Age Security cheque was applied towards the bill incurred by the mother at the nursing home.

Subsequently, the hospital and three doctors, who had treated the mother, submitted bills to the complainant (the son) totalling $153. These bills were outstanding at the time of the complaint to the office of the Ombudsman. The complainant's mother had not been reinstated as mentioned above, and the complainant felt that the Department had evaded its responsibility towards the medical and hospital bills.

Unfortunately, the official with whom the matter had originally been discussed by the complainant, had retired and could not be made available. The Departmental file did reveal that a request had been sent to Edmonton from the local office for reinstatement, but the file did not indicate what reply had been forwarded. It may have been done by telephone.

My inquiries received every cooperation of the then Department of Welfare, which was required, quite understandably, to make inquiries as to what assistance the mother had received in the other province where she had visited.

The eventual opinion arrived at on a legal basis, with which I do not quarrel, was that the Pension Board was not in a position to make a retroactive reinstatement of hospital and medical benefits in view of the fact that the mother was deceased.

68-210-18 (Continued)

Had the Department decided to hold fast to the legal position, it is possible nothing more could have been done. I should, however, like to emphasize that the Department went further than that, and sought other alternatives to rectify this matter if it could be done.

Without going into detail, it was ascertained that there is a procedure under The Bad Debts Procedure Act, whereby the outstanding hospital bills could eventually be paid from Government sources.

More important, in due course, I was advised by the Supervisor of the Pensions Division of the Public Assistance Branch that the Director of Welfare had suggested the doctor's accounts be submitted and would be paid through the Public Assistance Appropriation.

I would also point out that there was nothing binding on the Department to reinstate Supplementary Allowance in this particular case. The program had been replaced by Social Allowance and, by the Means Test, the deceased mother was just slightly beyond eligibility for Social Allowance. Therefore, she could not have qualified for hospital and medical benefits upon her return to this Province.

Nevertheless, the Department had reviewed the approach which had been made to it, and the fact that the file indicated a recommendation had been made, in error or otherwise, and that the record was incomplete as to what answer had been given to the local office. The Department took the view that there was a moral obligation, and it was on that basis that the Department was willing to approve the outstanding medical accounts.

It is not uncommon for me to receive complaints alleging heartlessness or lack of consideration on the part of the Welfare authorities, and indeed such matters are reported in the Public Press from time to time. I think therefore that I should include in this summary one paragraph from my final reply to the Supervisor of the Pensions Branch. It reads as follows:

> "I have paid particular attention to the second paragraph of your memorandum, and I can assure you that I see no need to justify the actions of your department in this particular case. I have noted your legal position, but I am highly gratified by the Department's assumption of a moral obligation. I am sure you will agree that things which are done lawfully are not always entirely just. There are laws which, quite unintentionally, do at times discriminate against particular cases. It is in such situations an Ombudsman has to decide whether or not natural justice has been satisfied, and I find that sometimes I have to be very persuasive where a department is on sound legal ground. Therefore, it is most encouraging when a department such as your own, which is so deeply involved with the sustenance and welfare of a considerable part of our population, opts for the moral view rather than the strictly legal one."

68-220-6

The complainant in this case is a farmer whose farm is in the immediate vicinity of a Provincial Government owned institution.

The farmer entered into an agreement with the Provincial Government in 1966, allowing the Department of Public Works to construct a sanitary sewer line along the edge of the property, which would eliminate approximately sixty percent of the sewer ditch, which had been created in 1942. Where the sewer line ended, it continued in the form of an open ditch, which was considered by the Department of Public Works to be a natural water course, and gradually becomes a creek which eventually runs into a large river.

The complainant had felt for some time that the effluent from the Provincial Institute, which ran into this open waterway, was causing damage to his stock, and that it also cut him off from the use of approximately four to five acres of his land. It was the opinion of the complainant that similar arrangements for a buried sewer should be made by the Department of Public Works. The Department on the other hand, had apparently taken the stand that as the sewer now ended in a *natural waterway,* which had existed long before any agreements, there was no requirement for the Department to take further steps.

The complainant had not had a flat turndown on his proposition, but it was his view that the effluent run-off from the Provincial Institution was probably polluted, and as it was running into the waters of a good size river, it was creating a pollution problem on a much larger scale than affected his own property. Naturally, of course he was interested in his own property first.

At the request of this office, the Department agreed to take steps through the Department of Agriculture to have bacteriological tests made of the water. This had not been done before, although the farmer had requested it.

Such tests were carried out, and the report of the analysis of the sanitary sewage effluent made by the Environmental Health Division was that the effluent was far below acceptable standards, and that the treatment of the sewage entering the line should be updated by means of a lagoon system.

Obviously, merely to have continued the sewer line until it left the complainant's property would have passed the problem on to his neighbour and eventually polluted water would have flowed into the river, which in due course becomes part of the Canadian West drainage system.

As a result of the findings, I was advised by the Department of Public Works in due course, that funds had been provided in the 1969-1970 estimates to construct a lagoon sanitary sewer disposal system with lift station and appurtenances, so that the complainant's complaint might be eradicated. The estimates for bringing up to date this sewage system were approved.

As the matter stood at the end of the reporting year for the Ombudsman's Office, I was advised that plans had been completed and that the contract would be awarded shortly. It was hoped the project would be completed before the end of the Fall of 1969.

The program has taken somewhat longer than was at first believed, but none the less the Department is keeping me advised as to the progress being made, and providing, of course, that the construction of the new sewage system eliminates the pollution problem, this matter will be considered Rectified.

68-220-6 (Continued)

This particular complaint affected more than one farmer. The effluent from this sewage system, which was far below acceptable standards, was finding its way into one of the larger rivers in this Province, making its own individual contribution to the increasing pollution of our waterways throughout Canada.

The means which are being taken to eliminate this source of pollution will, it is hoped, contribute in a modest way to the Federally announced program of anti-pollution, which is now receiving much attention throughout Canada.

68-300-27

The complainant in this case was an employee of a rest home. Apparently on her way to work during the winter, she had slipped and fallen just in front of the rest home where she was employed, according to her story, and had been receiving medical attention for several months. She had been unable to work during that period.

Her complaint was that the Workmen's Compensation Board had rejected her application for compensation.

I brought the matter to the attention of the Workmen's Compensation Board in July of 1968, and after some preliminary inquiries, I discussed the case with the Board. I was advised in November that a Claims Representative of the Workmen's Compensation Board had checked the actual site of the accident on February 25, 1968. Certain apparent contradictions were pointed out in the complaint. The complainant said in her claim:

> "I crossed the street over to the Nursing Home. I was right in front of the Home when I slipped on the ice."
> The employer's report stated:
>
> "Workman slipped on the icy sidewalk on the way to work (in front of the Nursing Home)."
>
> The employer's report also stated that:
>
> "*We understand that, since she fell on* the city sidewalk and on the way to work, the Board is not responsible."

In a statement signed by the official of the hospital, to whom the worker had reported the accident on the night in question, she stated that:

> "I asked her if she had fallen in front of the building and she stated she had fallen crossing the street . . . ".

The Claims Representative for the Workmen's Compensation Board had confirmed to the Board, that the City property extended back eighteen feet from the sidewalk curb to a handrail and that the distance to the curb from the first step was twenty-one feet. From this, the Board took the view that the worker fell either while crossing the street or on the City sidewalks. It was for these reasons that the Board had rejected the complaint because the accident had not taken place on the property of the employer.

My own investigation revealed that there were no witnesses to dispute the complainant's statement that she had fallen on the walkway in front of the Nursing Home. It was ascertained that there was a cement walk connecting the main street steps leading up to the Nursing Home with the City sidewalk.

This walkway, although on City property, had been constructed by the Nursing Home itself which had also constructed two wooden, L-shaped dividers located on either side of the walkway, where it joins the City sidewalk. The two wooden, L-shaped dividers were apparently designed to encourage people to use this particular walkway rather than to walk across the grass.

I advised the Workmen's Compensation Board that the complainant's employer at all material times, paid for the construction of the cement walkway where the accident in question had allegedly occurred, and that we had been

68-300-27 (Continued)

able to confirm that fact. I asked the Board to reconsider its earlier decision on this basis.

In March of 1969 I was advised by the Chairman of the Claims Review Committee of the Workmen's Compensation Board that the Board had considered the case further, and had expressed the opinion that the claim might well be accepted. I was further advised that the Claims Department had written to the employer, indicating their preparation to reverse their earlier decision, but withholding their final decision for a period of ten days in the event that the employer wished to appeal.

I was subsequently advised in writing in April of 1969 by the Chairman of the Claims Review Committee, that the employer had indeed protested the acceptance of the claim. The employer reiterated the previous information that the worker had slipped on the City sidewalk and not on the employer's premises. He, however, added one new interesting fact. This was that due to the type of accommodation the Nursing Home provided, to wit, elderly people *who are very susceptible to falling,* the Home must keep their entrances and a portion of the City sidewalk free of ice and sanded. The employer also raised the point where the nurse, to whom the complainant had reported the accident, had stated that, "She had fallen crossing the street."

The Board asked if we had a statement in writing from the complainant and, if not, could we obtain a statement signed by the worker as to the exact location of the place where she fell, and with a diagram of the street, sidewalk and entrance.

By this time, the complainant had left the Province. She was located and, without prompting from this office, she drew a sketch of the scene of the accident and reaffirmed her earlier statement that she did in fact slip on the walkway located immediately in front of the Nursing Home.

She made it quite clear that she did not fall on the sidewalk or the street located in front of the Home, but rather on the walkway connecting the front entrance to the Nursing Home to the City sidewalk. This walkway, as was mentioned before, was on City property but was constructed and maintained by the Nursing Home.

In July of 1969, I received a further letter from the Board advising me that the Board had now found that the accident should be considered to have arisen out of and in course of the complainant's employment. She was entitled to compensation and I was requested to advise the Board of her present address, which was done.

This office also advised the complainant of the decision made in her favor, and as the Workmen's Compensation Board had not advised her of her further rights of appeal should she be dissatisfied with the amount granted, I undertook to advise her in writing of her rights of appeal under Section 27 of The Workmen's Compensation Act.

68-300-68

The complainant in this case suffered an eye injury in 1943 for which he was allotted a pension by the Workmen's Compensation Board in the amount of $6.19 per month.

In 1959 he underwent a further medical examination, and his claim was reviewed by the Board, following which he was advised that his permanent partial disability pension had been increased from $6.19 to $8.67 per month commencing April, 1959.

He subsequently underwent an operation. His claim was again reviewed by the Board which then concluded that he had a lesser degree of disability attributable to the accident than had been the case heretofore. His pension was therefore reduced from $8.67 to $6.50 per month effective May, 1961.

Since that time, according to the complainant, he has endeavoured in numerous ways to have his pension increased. Apparently he has contacted "Action-Line" radio programs, his Member of Parliament and others, but without success.

Eventually he read of the work of the Ombudsman and forwarded his complaint of insufficient pension to the Ombudsman in November, 1968. In fact he was asking for an increase in pension based on the increased cost of living, and at that time no such provision existed.

It is a requirement that all complaints submitted to the Ombudsman must have passed through whatever existing avenues of review and appeal are available to the complainant before the Ombudsman may act.

Under the Workmen's Compensation Board there is a final appeal under the provisions of Section 27 of The Workmen's Compensation Act, and an applicant has a right to request a review under that Section.

As I mentioned elsewhere in this report, it has not been the practice for the Board to advise applicants, who are in receipt of pensions, or who have been rejected, that there are further avenues of appeal open to them.

It has generally remained for the applicant to find this out for himself.

In this particular case, I was advised by the Workmen's Compensation Board in answer to my written request, that the complainant had neither requested nor undergone a medical examination pursuant to the provisions of Section 27 of The Workmen's Compensation Act.

The complainant had therefore been endeavouring to obtain further assistance for a number of years, completely unaware that there was a Statutory provision by which he could appeal for a further examination.

Inasmuch as this avenue of appeal was available to the complainant, I was required to advise him, as I have had to do in many other cases, that I could not act on his behalf until he had requested and obtained an appeal by virtue of Section 27 of The Workmen's Compensation Act.

I advised him, in accordance with the policy adopted in this Office, that as a result of such a review, the Board might raise, maintain, lower, or even cancel any previously awarded pension.

68-300-68 (Continued)

I suggested that the complainant talk the matter over thoroughly with his family physician and possibly should contact a lawyer before entering an appeal. More important, I advised that although I must now close my file, in view of the avenue of appeal open to him, he was free to contact me again following the appeal, should he feel dissatisfied with his appeal under Section 27.

The complainant made an appeal under Section 27 of The Workmen's Compensation Act and eventually, based upon the findings of the examining Doctors, the Board increased his pension from 12 per cent to 25 per cent of total.

The Legislature amended The Workmen's Compensation Act during the last Session, by which Legislation the Government supplements a number of Workmen's Compensation Board pensions based on a cost of living index. This supplement does not apply to pensions less than 15 per cent of total. Therefore, an upward adjustment in the percentage of pension awarded to this complainant brought him within the provisions of the new amendment with the result that his pension was increased from $6.50 to $43.75 per month.

He has been on pension since approximately 1943, but it was not until he contacted the Office of the Ombudsman in 1968, that he learned of the appeal provisions available to him under Section 27 of The Workmen's Compensation Act.

WORKMEN'S COMPENSATION BOARD

68-300-76

The complainant in this case suffered an accident involving a fracture of the nasal bone. He received hospitalization and surgical repair, and was examined by the Board's Medical Department at a later date. He was found to be fit for employment with no assessable remaining disability.

Following the medical examination, the complainant was interviewed by a Claims Officer of the Board, and at that time, the complainant requested immediate payments of the balance of his compensation, which was still outstanding. In view of the urgency of his request, he was given a special cheque issued against an advance fund of the Workmen's Compensation Board.

However, in the meantime, due to an oversight, a regular payment of compensation for the same period and in the same amount was being processed through normal channels. This second cheque was mailed to the complainant in error a month later. Thus he had been paid twice over for the same amount of compensation.

The complainant accepted and negotiated both cheques. Subsequently the Workmen's Compensation Board wrote to him, requesting that they be reimbursed for the duplicate payment. No reply was received for several months, and three months later the Board again wrote on two separate dates, two weeks apart, pointing out that the complainant could repay the overpayment in easy monthly payments and in amounts which were convenient to him. The complainant chose to ignore this correspondence.

Two months later and three months later, the Workmen's Compensation Board again wrote to the complainant, but he still did not reply nor did he make any payments.

However, much later in the same year, 1968, he suffered another accident involving a fracture at the base of the fourth left finger. For this accident he was entitled to compensation, and the Board subsequently deducted the outstanding overpayment from the compensation cheque which the complainant was paid for the second accident.

This action resulted in the complainant writing to the Ombudsman's Office in great indignation.

The Workmen's Compensation Board was as lenient as it could be, and recovered the money which was owing to it in two separate deductions, to ease the burden as much as it could for the complainant, who it must be said had made no effort whatsoever to either reimburse the Board or indeed to acknowledge that he had received duplicate payments in the first instance.

After going into this matter thoroughly and ascertaining the facts, I came to the conclusion that the complaint was not justified, and that the Workmen's Compensation Board had acted reasonably in endeavouring to recover funds which had been inadvertently overpaid to the complainant.

NO SPECIFIC COMPLAINT MADE

68-450-11

The complainant in this case felt entitled to the exemption contained in The Municipal Taxation Act with regard to farm buildings. It seems that he had on his twenty-acre parcel of land between 1500 to 1800 laying chickens. The initial letter of complaint was not specific as to whether the matter had been appealed to the Assessment Appeal Board.

The Alberta Assessment Appeal Board concluded that the complainant was not engaged in the production of poultry and for that reason rejected his appeal.

The complainant felt that there was discrimination against his type of farming operation, and requested my intervention on his behalf. I concluded that the complaint against the Board was not justified. The Board was of course bound by the Statutory definition of "Farm Board" as it appeared in Section 1 of The Municipal Taxation Act.

I did not express any opinion as to whether or not I would have interpreted the existing Legislation the same way that it was interpreted by the Board. However, I was satisfied that it was not unreasonable for the Board to come to the decision reached herein, and for that reason I concluded that the complaint was not justified.

I submitted a full and complete report on this particular case so that the specific Legislative provisions in question could be reconsidered in the light of this complaint. I submitted my final report to the Minister of Municipal Affairs in my letter of February 20, 1969, in which I indicated that I would not be referring to this particular case in my Annual Report for 1968, as I understood that the specific Section in question of The Municipal Taxation Act was scheduled for review at that current Legislative Session.

I have noted that the said definition of "farm buildings" in The Municipal Taxation Act was amended by Chapter 78 of The Statutes of Alberta, 1969. The complainant has advised me that as a result of that Legislative amendment, his overall property taxes have been reduced from $225.00 to $60.00 per annum, inasmuch as all of his farm buildings, including his residence and other improvements used in connection with poultry operation are now exempt from property taxation.

ALBERTA GOVERNMENT TELEPHONES

69-260-2

The complainant in this case had made application for employment with the Alberta Government Telephones through their employment office. His application was for a clerical position.

He stated that he was advised by a female member of the staff that the Company would be taking interviews for male clerical positions at the starting salary of $250.00 a month. The complainant mentioned that he was seriously interested in the position.

His complaint stated that he phoned again later regarding the position, and received a somewhat different story. His complaint did not outline what the second story was, but it was apparent that employment was not offered to him at that time. He concluded his complaint by stating that he had made other job commitments since his application and would therefore be unable to accept a permanent position with the Alberta Government Telephones until the fall of 1969.

His complaint seemed to be that the Alberta Government Telephones should have offered him instant employment at the time of his application.

I replied to him advising him that there was of course no obligation on the part of any employer, even an agency of the Government of Alberta, to employ anyone. I advised him that so far as I could see, he made application for employment and for reasons of which I was unaware, the Department had declined to employ him.

However, I pointed out to him that there might be other factors of which he had not told me or which he had not made clear in his letter, and that if so, I would be very pleased to have such facts and if they merited it, I would be only too glad to reopen the case.

I received no reply whatsoever, and the case was therefore shown as abandoned over a month later.

I mention this case, as it indicates an attitude of mind in certain circles to the effect that there is some obligation on the part of Government to employ anyone who comes along, and who feels that he has the qualifications for such employment.

I would certainly agree that the opportunity to make application for open positions in the Government service should be available to any resident in the Province and that such positions should be rather widely advertised, perhaps more so than might be done by private corporations. I find that such advertising is done quite widely by the Public Service Commission of this Province.

I would not agree however, that there is any obligation on the part of the Government service to offer employment to those who do not measure up to the standards and qualifications for positions in the Government service, and who do not successfully compete with other applicants for the open positions.

69-260-3

The complainant in this case objected strenuously to the fact that he had been required by the Alberta Government Telephones to make a deposit of $1,000 before it would restore his telephone service which had been disconnected. As a support for his claim, he stated that he had a child who was not well, and for that purpose he might require telephone service at any time.

He did, however, admit to owing a telephone bill in a State of the United States of $500 or more, and also that his present work kept him going between Eastern Canada and Western Canada from time to time. The permanence of his residence in this country also seemed to be somewhat obscure.

None the less, I took up his complaint with the Alberta Government Telephones, and I ascertained that the total amount of back telephone bills owing by him in the United States, as far back as 1964, was in excess of the amount of $3,000. Additionally, each of these accounts was apparently under a different name. He was as well, under a wanted notice in a city in another State in the United States, apparently for Mail Fraud.

In view of this information which I received, I could well understand that the Alberta Government Telephone Company might have had some hesitation in providing full service for this gentleman, without some form of security.

I wrote to the complainant, pointing out the information which I had received and giving him the opportunity of supplying me with denials of the information available to me, or an explanation which might be suitable.

Regrettably I have not heard from him since that time. I have therefore concluded the file and considered the complaint not justified.

ALBERTA GOVERNMENT TELEPHONES

69-260-6

The complainant in this case is the recipient of a pension of $157 a month from the Royal Canadian Air Force, and is in possession of an Honourable Discharge Certificate.

In 1966, following his retirement from the R.C.A.F., he obtained employment with the Alberta Government Telephones. His work required him to travel considerably, for which purpose he used cars belonging to the Alberta Government Telephones.

In 1968, early in the spring, he had a company car in his possession one evening, and it is stated that he returned very late to the city that night. He had kept the car at home that evening as it was, according to him, his intention of returning it to the garage, and later that evening he was involved in an accident with a private vehicle in the City of Edmonton.

As a result of this accident, the complainant was arrested by the Edmonton City Police and he was convicted in Magistrate's Court on a charge of impaired driving. He was fined. He was not given a jail sentence, although this was his second conviction for the same type of offence.

Following his conviction, he reported to his supervisor, and within a very few days was discharged from the services of the Alberta Government Telephones.

There is no question that this man had a problem with alcohol and, in fact, must be considered to have been an alcoholic.

Ten days after his discharge from the Alberta Government Telephones, he obtained employment in his own field with another company for which he worked approximately six months.

During this period of time he was very heavily indebted due to debts which he had incurred since his retirement from the Air Force. Futhermore, his alcoholism became a much more serious problem for him.

He eventually quit his job and voluntarily committed himself to treatment for alcoholism. He entered an institution from which he was released in December of 1968.

Due to the damage to the Alberta Government Telephones car, that company had taken legal action and had obtained a Judgment against him. The Alberta Government Telephones had also obtained a proper order to garnishee his wages during the time he was employed with his subsequent employer. However, before the garnishee could be effected he had, as mentioned previously, quit his job and sought treatment in an institution.

At some stage during these proceedings he had placed his financial problems in the hands of the authorities responsible for carrying out the Orderly Payments of Debts Regulations, which Regulations are Part 10 of The Bankruptcy Act, Chapter 14, Revised Statutes of Canada.

The Province of Alberta has pioneered in this field of assisting persons with an overwhelming burden of debt, to discharge their obligations in an orderly way and without the necessity of becoming a bankrupt.

The complainant had been under the guidance of those who administer these Regulations since 1967, and for the purpose of discharging his debts he had contributed to the fund, on a monthly basis, his entire pension from the Royal Canadian Air Force.

Briefly, the authorities had made contact with all his creditors and had obtained their cooperation in accepting voluntarily, a plan for the discharge of the indebtedness due to each of them, through this plan.

It is perhaps important to note that when a creditor has entered voluntarily into an arrangement to have the debts due to him discharged in this manner, he may not then seek to obtain a larger figure or a further discharge of the debts by application to the Courts. He may, of course, withdraw from the procedure and seek to settle his indebtedness privately, but as long as the creditor remains as a voluntary participant in the plan, he cannot seek the aid of the Courts to increase the amount of money coming to him.

The complainant had been under the supervision of the authorities in connection with this plan, while he was employed with the Alberta Government Telephones and since that time.

The Alberta Government Telephones was now faced with the problem of collecting the indebtedness due to it, as a result of the car accident in which the complainant had damaged the company car, and on October 2, 1968, by letter, the General Counsel for the Alberta Government Telephones, directed a letter to the administrator of this plan at the Court House, Edmonton, Alberta, which read in part:

> "Alberta Government Telephones agrees to participation in your plan of distribution regarding (the complainant), but reserves the right, on notice to you, to discontinue participation and take other action."

It is important to note at this point that at no time did the Alberta Government Telephones withdraw by notice or in any other manner from participation in this plan. The Alberta Government Telephones had therefore voluntarily agreed to enter the Consolidation Order as a Creditor, as per the terms of the Orderly Payment of Debts Provisions, and had thus voluntarily prohibited itself from conducting any other legal action against the complainant for the payment of this debt.

It is also important to note that throughout the entire proceedings which followed, the debt due to the Alberta Government Telephones was being discharged in small amounts, but nevertheless discharged, in accordance with the plan.

The complainant, upon being released from the institution, where he had voluntarily had himself committed in order to overcome his problem of alcoholism, was very shortly afterwards able to obtain employment in his own trade at which he was very skilled, in a large institution.

Notwithstanding the fact that the Alberta Government Telephones was now a creditor under the Orderly Payment of Debts Provisions, repeated letters were sent to the Debtors' Assistance Board, by or on behalf of the General Counsel, concerning the whereabouts and other information respecting the complainant.

It is my information that there was some concern that pressure on the complainant for his indebtedness, in addition to what he was paying through the plan mentioned previously, could bring pressures and tensions to bear upon him, the possible result of which can be only too obvious.

As a matter of fact, the Doctor who was assisting him with his problem, which at this stage appeared to have been overcome, had a telephone conversation with the General Counsel for the Alberta Government Telephones, where he learned that there was a possibility that the complainant's telephone would now be disconnected.

At this stage, I should point out that the complainant had obtained his employment through the faith and trust of his employer, who felt there was a good possibility that the complainant could make good; had overcome his problem, and that he could rehabilitate himself to a point where his undoubted excellence of technique in his trade could be made extremely useful to the institution in which he was working.

There was, however, a major requirement. That requirement was that the complainant must have a telephone in his home where he could be reached twenty-four hours a day in the event of a major maintenance problem occurring at his place of employment. This was probably the most important requirement for the job he held, and without that telephone it would have been impossible for him to have held the position which he had obtained.

Despite the representations made to the General Counsel for the Alberta Government Telephones, he, on March 12, 1969, directed a letter to the Orderly Payment of Debts Provisions, indicating that he had on that date:

> "In keeping with our standard policy of not extending service to parties indebted to A.G.T., I have today advised our staff to disconnect (the complainant's) telephone and not to reconnect the telephone until our account is paid in full."

This phone was subsequently disconnected on March 17, 1969, and at a later date the Alberta Government Telephones again endeavoured to obtain information respecting the current address of the complainant.

Despite representations made by the complainant's employer, by telephone, to the General Counsel for the Alberta Government Telephones, the following letter, in part, was written to the complainant's employer and signed on behalf of the General Counsel of the Alberta Government Telephones. It said this, in part:

> "I am writing to confirm our conversation about (the complainant's) telephone service in Edmonton.
>
> (The complainant) does not owe us any money for telephone calls at present, but, since he is in effect bankrupt, his credit rating is very poor. Accordingly, pursuant to the Water, Gas, Electric and Telephone Companies Act and the *City of Edmonton bylaw* regarding telephone service, we have requested a $100.00 deposit in regard to (the complainant's) telephone service.
>
> I understand the deposit has not been paid and (the complainant's) telephone service will not be reconnected until it is paid."

69-260-6 (Continued)

This letter, had nothing further been done, would have been completely effective in cancelling the complainant's employment, and it must be remembered that during this period and since his release from the voluntary treatment which he undertook, there had been no indication of any return to his former problem of alcoholism. It was approximately at this stage that the complaint was brought to the Ombudsman, with the encouragement of the complainant's employer.

An examination of the existing City bylaws indicated a rather interesting situation. It is peculiar to the City of Edmonton, in this Province, that the telephone system of the City is owned and operated by the City of Edmonton itself. Under the existing City bylaws, the Superintendent of the Edmonton Telephone System has the *sole authority* to discontinue telephone service for phones within the Edmonton Telephone System.

The procedures which led up to the discontinuance of service to the complainant are of interest. When he left the employ of Alberta Government Telephones, he was shortly afterwards indebted as a result of a car accident involving a company car. His phone service was continued by the company after his discharge. In January of 1969, he took a boarder into his home. The boarder incurred a long distance telephone bill of $39.50.

The complainant was advised on March 12, 1969, by the Alberta Government Telephones that this bill was overdue and the phone would be cut off. Actually, the bill was delivered to the house on or about March 11th, one day before notice was given. At no time had the complainant received any second notice or anything indicating that the account was in arrears. The bill was paid by the boarder on Friday, March 14th, two days later. The phone service was cut off on March 17th, three days later.

It was established, and the Alberta Government Telephones has, at a later date, confirmed my understanding that the complainant was in no way indebted to the Alberta Government Telephones for telephone service incurred since March 17, 1969.

Incidentally, the City of Edmonton, with the complainant's concurrence, had been charging him a bill of $4.25 a month for a dead telephone since that date, and he paid that bill each month. It should be clear, in fairness to the City of Edmonton Telephone System, that it was the complainant's own wish to keep this dead telephone in good standing so that he might have service restored as soon as possible if his representations were heeded. It should be made very clear that the complainant was not indebted to the Alberta Government Telephones for telephone services. He was not delinquent in paying his telephone bills, nor is there any indication that he ever had been.

The Alberta Government Telephones in the City of Edmonton, has no authority, of its own volition, to terminate telephone service. It may only ask the City of Edmonton to terminate such service. In the existing City bylaws at the time of my investigation, the only grounds which existed for termination of telephone service in the City of Edmonton, on behalf of Alberta Government Telephones, was for non-payment of Alberta Government Telephones long distance accounts. Such a situation did not apply to the complainant.

The procedure has been for the Alberta Government Telephones Company to submit a list of persons to the City of Edmonton Telephone System, whose telephones they desire to have cancelled or service suspended, and the City of

Edmonton, quite understandably, has taken it for granted that these submissions were being received in accordance with the Edmonton City bylaw, and were therefore suspending or cutting off such telephone service.

In fact, the Alberta Government Telephones has been submitting names of persons who have declined or were unable to pay a deposit for their telephone, and as we know in this case, the submission of a man whose only indebtedness to the Alberta Government Telephones was for a car accident. In none of these cases was there any authority under the existing City bylaws for the Superintendent of the Edmonton City Telephone System to terminate service on those lines.

I should make it quite clear that the Edmonton City Telephones had every reason to take it for granted the names which were being submitted to them were in accordance with existing City bylaws. There are several City bylaws covering the same procedure, but none of them authorize any other reason for termination of service by the City Telephone System on behalf of the Alberta Government Telephones except for non-payment of telephone accounts.

I should now refer back to the letter quoted previously in this summation, where a letter signed on behalf of the General Counsel of the Alberta Government Telephones, dated April 1st, to the complainant's employer said:

> "Accordingly, pursuant to the Water, Gas, Electric and Telephone Companies Act and the City of Edmonton bylaw regarding telephone service, we have requested a $100.00 deposit in regard to (the complainant's) telephone service.
>
> I understand the deposit has not been paid and (the complainant's) telephone service will not be reconnected until it is paid."

We have already seen that the City of Edmonton bylaws do not provide for termination of service for lack of a deposit to Alberta Government Telephones. Reference to the Water, Gas, Electric and Telephone Companies Act, which is a Provincial Act, says this:

> "4. (1) No company is entitled to exercise any of the powers given by this Act until the company has obtained the consent thereto of the council of the city, town or village within which such powers are to be exercised.
>
> (2) The consent shall be by by-law and shall be on such terms and conditions as the by-law may provide."

There was therefore, in my view, no doubt whatsoever that service to the complainant's telephone had been most improperly cut off for reasons which have no basis in law, and that the Alberta Government Telephones had not provided proper information to the City of Edmonton Telephone System when asking that such service be terminated.

I took up the matter immediately by telephone with the Superintendent of Edmonton City Telephones and he immediately had the service reconnected the following morning. Almost at the same time I took up the matter with the General Manager of the Alberta Government Telephones, where I received a most sympathetic and understanding hearing from the General Manager and his Board.

Most of the action taken had been as a result of correspondence emanating from the office of the General Counsel of the Alberta Government Telephones.

69-260-6 (Continued)

It is my belief that the General Manager was not aware, until I brought the matter to his attention, that these discrepancies had occurred. I believe the General Manager's attitude is very well expressed in a letter of September 8, 1969, which he wrote to the complainant as follows:

> "Dear Mr. (complainant):
>
> I am enclosing A.G.T. Cheque No. N79811 dated September 5, 1969 for the sum of $22.00. This represents a refund of the rental on your city telephone for the period it was out of service as a result of our request for a deposit from you.
>
> A review of this action indicates that the request for a deposit should not have been made and would not have been made had the correct procedures been followed by our staff.
>
> On behalf of the A.G.T. Commission I wish to offer our sincere apologies for the inconvenience and embarrassment caused to you as a result of this unfortunate affair.
>
> Yours sincerely,
>
> J. W. Dodds
> General Manager"

Whatever the frailties of the complainant in his own personal problems, he had at the time of the investigation taken long strides towards rehabilitation. The Alberta Government Telephones had voluntarily entered into an agreement to recover its indebtedness through the provisions of the Orderly Payments of Debts Provisions. There was therefore no legal procedure by which the company could endeavour to recover more than the amount it was getting regularly unless it withdrew from the plan, which it did not do. It would therefore seem equally improper to bring pressures to bear of any other nature, to endeavour to force the complainant to settle his indebtedness by making the Alberta Government Telephones a preferred creditor.

The matter has now been rectified. The complainant was under considerable pressure and might well have reverted to his former problem, particularly, as his continued employment in his position had become impossible because of the termination of the telephone service.

I should like to refer, in conclusion, to the instantaneous favorable reaction from the Superintendent of the Edmonton Telephone System once he was made aware of the facts, even though his own firm was in no way responsible for this series of events. He restored full service the following morning. I would like equally to refer to the fact that the General Manager of the Alberta Government Telephones responded instantly when the facts were brought to his attention. As a result, the complainant's position was, at the termination of my inquiry, secure. His telephone service had been restored and I may say that from the last information I had, he was highly regarded for his competence in his work.

69-320-1

The complainant was a major shareholder in a hotel in a city in Alberta. The complaint received was to the effect that the Alberta Liquor Control Board had cancelled the complainant's License because the premises did not come up to requirements. Eventually as a result of the cancellation of the license in part at least, there was a foreclosure of the mortgage on the hotel.

On instituting inquiries with the Alberta Liquor Control Board, I found that there was a very extensive file on this hotel. An investigation was also made of the hotel premises and an interview held with the complainant.

In the first place, it was easily ascertained that the hotel was of very old construction and in no way measured up to the standards required today. It was also very obvious that if this hotel was in any way to meet existing standards, a very major rebuilding operation would have to be carried out, if not the building of an entirely new hotel.

In 1964 the Board wrote to the complainant, suggesting that prior to entering into any refinancing or renegotiation of mortgage arrangements, he should be prepared to submit a proposal to the Board in order to obtain the Board's acceptance or otherwise to the proposal. That correspondence indicated that the age and condition of the hotel was poor at that time, and its usefulness as a licensed outlet was questionable.

In May 1965 the Beer Vendor's License was suspended due to convictions of employees for selling to minors and other offenses.

In 1966 the Board outlined a list of recommendations, following an annual inspection, advising that many improvements were required to the hotel; that these were extensive and they involved structural work. In addition, the replacement of furnishings, interior finishes, etc. was a necessity.

There is considerable other correspondence on the file during subsequent years, indicating that the Board was giving the complainant every opportunity to bring his hotel up to minimum standards, but at the same time, advising him that a major overhaul was involved, and that he should not become too deeply enmeshed in financial arrangements for such an overhaul, until he had had a complete understanding with the Board as to what was required.

Finally in the early part of 1967, it became necessary to advise the complainant that the Board could not accept applications for licenses from him after the 31st of March that year. He was, of course, advised that he could appear before the Board. Very obviously from the file, the complainant passed up many opportunities which were given to him to present his case before the Board, or to acknowledge correspondence.

Finally, later in 1967, the complainant's solicitors asked for an extension of the license for the purpose of submitting a plan for construction of a new hotel, with such construction to commence not later than April 30, 1968.

On one occasion in 1967 the complainant wrote to the Board advising that he would place before the Board on or before May 15, 1967, plans for a replacement of the hotel, and that before June 30 of the same year, he would present an acceptable and complete plan for a new hotel with construction of the new hotel to commence on or before September 1, 1967.

The letter further volunteered, that if the conditions were not met with, so that construction of the new hotel was underway by September 1, 1967, the complainant would voluntarily surrender to the Board his licenses.

Despite this very definite offer, further applications for delay were received. There was much further correspondence between the complainant and his solicitors, and the Board, and in the end, apparently due to difficulties in financing the new hotel, the Board found itself in a position where it could wait no longer.

The hotel in no way approached minimum standards for licensing, and eventually the Board phased the hotel out of licensing, because, in its view, it was unable to get the complainant to carry out the necessary improvements and the rebuilding required to bring the building up to acceptable standards for licensing in this province.

My investigation revealed that the Board had given the complainant every reasonable opportunity to finance the construction of a new hotel. It is particularly noticeable that the Board leaned over backwards to place the best interpretation on representations and promises which were made to it. I mention this in view of the fact that on occasion some harsh things are said about the licensing laws of this province.

My investigation of this case, and certainly the departmental file, and the correspondence from the complainant, all clearly indicate that the attitude of the Board could not have been more cooperative, more sympathetic or that the Board could have done anything more than it did in an effort to permit the complainant to make good his many promises.

Unfortunately he was unable to do so and in due course, in my view, the Board had no other course but to do its duty and terminate the licenses of this particular hotel.

I found the complaint not justified.

69-110-10

In the Spring of this year this Office received a complaint from the wife of an inmate of Fort Saskatchewan Gaol. She advised that her husband was serving a three month gaol term on a charge of impaired driving. She also advised that he had written a letter of complaint to this office, which he had told her he had mailed in the last week of March, 1969. Our records did not indicate that we had received a letter of complaint from the inmate at that time.

The complainant's wife then stated that she was complaining on behalf of her husband, whom she felt was apparently unable to send a letter from the gaol to the Ombudsman. This, of course, was a very serious allegation, in view of The Ombudsman Act, which provides that all mail addressed to the Ombudsman by inmates of Provincial Gaols shall be forwarded unopened.

The complainant's wife then itemized three matters of complaint as follows:

1. Mail destined for the Ombudsman's Office was being intercepted by the staff at the Gaol.
2. That her husband had been beaten up by two other inmates who had been placed in the same dormitory as he was.
3. That there were two juveniles aged fifteen serving time in the gaol, who in the opinion of the complainant, should not be there.

The complainant's wife was advised at that time that she should advise her husband to once again submit a letter of complaint to this Office, so that we could determine whether or not mail is indeed being intercepted. She stated that she would do so, and suggested to her husband that he resubmit his complaint in writing. On April 15, 1969, this office received a letter of complaint from the complainant, in the Provincial Gaol, which showed no indication that it had been intercepted in anyway.

The letter confirmed the statements made by his wife and asked for an interview.

The complainant was therefore interviewed by an Investigator from this office at the gaol.

The complainant stated that he wrote a letter to the Ombudsman in March. The letter was not in an envelope and it could be read by any member of the staff who had access to the mailbox. According to the complainant, the letter disappeared and was never received at the Office of the Ombudsman. He outlined the matters about which he was complaining in that particular letter.

By the complainant's own statement, the letter, which never reached the Office of the Ombudsman, was not properly placed in an envelope, but was simply dropped in the mailbox where certain personnel of the Gaol could handle the mail and have access to it, and indeed were in a position to scrutinize it.

At a later date the complainant again wrote a letter to the Ombudsman and sealed it in a brown envelope. This envelope was dropped in the mailbox in the upstairs dormitory. Two days later, the Deputy Warden advised the complainant that the letter to the Ombudsman had been opened and placed in another

69-110-10 (Continued)

envelope. Understandably, the Deputy Warden did not realize that the letter was other than normal mail which is censorable, and as it did not have the name of the complainant on the outside of the envelope, it had to be opened. That letter was received at the Office of the Ombudsman on April 15, 1969.

The complainant's other complaints were generally in connection with his difficulties with other prisoners, including homosexual overtures, and other matters.

However, the complainant was leaving the gaol in a couple of days, and there was little that could be done to assist him particularly in his personal complaint.

I was particularly concerned about the possibility that mail addressed to the Ombudsman might be intercepted and I referred the matter to the Deputy Attorney General of the Province for an investigation.

The investigation did not reveal any trace of the original missing letter, and as it had not been forwarded in the proper envelope, almost anything could have happened to it.

For ordinary mail, envelopes are not permitted to inmates, as all envelopes are addressed and sealed by the mail censor. However, in accordance with the law requiring confidentiality of mail addressed to the Ombudsman, there is a prison regulation that an inmate requiring an envelope to seal his letter to the Ombudsman, obtains one from the Classification Officer by special request. Such an envelope is pre-addressed and is issued to inmates and such transactions so noted in the Register.

This procedure is understandable except for one fact, and that is the noting of the transaction in the Register. However, without any further suggestion from this office, the authorities realized that the practice of registering the name of the sender of mail directed to the Ombudsman, might give some suggestion that a record was being kept of complainants.

The procedure of keeping such a record has now been discontinued and pre-addressed envelopes are available from the Control Guard Room for the asking, thus eliminating the maintenance of any records of the names of those who send letters to the Ombudsman.

The Director of Correction Services, Mr. J. D. Lee, informed me of all the investigation which had been carried out and the corrective measures which had been taken. I agreed with his surmise that this was an isolated case and that the corrective measures taken would deal with any further problems.

As to the other complaints of the original complainant, his release from the Gaol prevented any continued investigation, and the matters were referred to the Gaol authorities for their information.

This complaint is therefore shown as Rectified.

69-110-14

The complainant in this case is a carpenter.

He reported to my office that in May 1966 he was peacefully occupying his room in a rather small hotel in the City of Edmonton, the name of which would probably be unknown to most of the citizens of Edmonton. Suffice it to say that it is not noted for catering to the carriage trade.

He complained that in his room he was assaulted by two men and a woman, and that he received a severe beating and was robbed of over $50 from his person by these three persons, who then ran away.

He further reported, and the Courthouse records verified his story, that the three persons he referred to, being the two men and a woman, were apprehended within a matter of an hour or so by the Edmonton City Police, and in due course were convicted of robbery with violence.

When his assailants were apprehended, a sum of approximately $34.65 was found in their possession by the Police, and was entered into Court as an exhibit.

The story which was unfolded by interrogation, investigation and a perusal of the Court records indicated the age old story of the man who had fallen among evil companions. It appeared that the complainant had rented a room in the modest hostelry referred to, at an early hour of the morning of May 21, 1966. There he had refreshed himself and had then left the room for the washroom, where he encountered one of the males of the company who were to lead to his subsequent downfall.

Apparently present in the vicinity of the washroom was another male and a woman. According to some of the evidence which was subsequently adduced, there was a short discussion, following which the female grabbed him by the hand and took him back to his own room.

There is evidence of some drinking of wine in which various trips were made to the complainant's room by one or the other of the two men referred to and the woman in question. Details of these visits to and from the room become somewhat hazy, but eventually the complainant was faced with the two males and the female, and some suggestion was raised that the complainant had endeavoured to rape the woman.

The two other males were apparently overcome with indignation at this assertion, and they fell upon the complainant and assaulted him severely. He was beaten and kicked by both males.

During the scuffle, the female, according to evidence adduced in the Court, endeavoured to remove the complainant's wallet from his hip pocket, and in doing so ripped his pants from that pocket as far south as the cuff. The complainant remembers seeing her remove the money from his wallet following which his three assailants disappeared.

However, these events known in Police parlance as "the badger game" did not go unnoticed. The door had been left open and there were witnesses who had seen what had transpired. Unlike the Pharisee, these witnesses came forward and offered themselves to testify as to what they had seen.

69-110-14 (Continued)

Within a short time the two men and the woman were apprehended although they had registered in another hotel. The sum of $34.65 was removed by the Police from their persons, and as mentioned before, was entered into Court as an exhibit.

The Court, after hearing all the evidence, found all three accused guilty of robbery with violence under Section 289 of the Criminal Code of Canada. The two men were sentenced to three years imprisonment with hard labour in the penitentiary, and she of the weaker sex, to only two years sentence in gaol.

All sentences were appealed but without success.

Following these events the complainant advised this office that he had endeavoured to recover what was left of his money, namely the sum of $34.65. Unfortunately the Court had not ordered restitution, and indeed there is no evidence that the Crown Prosecutor had asked the Court to do so. The complainant was therefore in difficulties.

The gist of his complaint however, which is supported by my own inquiries, was that the general answer he received in his efforts to obtain the return of the money stolen from him, was to the effect that, as the bills which had been recovered from the accused by the Police, could not be positively identified as those which had been taken from his person, they could not be returned to him.

The complainant alleged that he was told at the Office of the Clerk of the Court in Edmonton that he would have to identify the actual bills before they could be released to him.

He went to Vancouver in 1967 for employment and returned to Edmonton in December of 1968. He claims that here again he phoned the Courthouse inquiring about his money, and this time was advised by a member of the staff of the Clerk of the Court to seek the advice of the Ombudsman.

The complainant accepted this advice and the incidents which I have referred to in this summary were reported to me, insofar as they were known to and remembered by the complainant.

I took the matter up with the Attorney General's Department, and was referred to the Crown Counsel, whom I wrote.

The answer which I received indicated that the Crown Counsel in question had contacted the Clerk of the Court in Edmonton, who apparently had discussed the matter with the Crown Prosecutor in this particular case, receiving the advice that the $34.65 in question was never identified as being the property of the complainant.

My further investigations however, indicated that this was not all that had happened to the money in question.

Apparently, there is a procedure by which various small sums which accrue to the Office of the Clerk of the Court are in due course totaled up, and upon the signature of a Justice of the Appeal Court, are transferred to the provincial revenue of the Province.

I found that this was indeed the fate which had overtaken the particular $34.65 involved in this case.

69-110-14 (Continued)

In some puzzlement I again referred the matter to the Deputy Attorney General. I pointed out that I am not in a position, nor would my jurisdiction permit me to question the views of the Crown Attorney on the reasons why this money could not be returned by the Court Officials to the victim of the crime. However, I indicated my curiosity about both the logic and the justice of the final disposal of this sum of $34.65 recovered from the convicted persons.

I raised the point that there could be no question as to the identification of the sum of the money as having been removed from the prisoners by the Police. There was police evidence in Court to this effect, and it was clearly indicated in the transcript of evidence at the trial.

I pointed out that my own police experience would have indicated, that if this sum could not have been identified to the satisfaction of the Court as having been stolen from the complainant, despite the complete conviction upheld on appeal, the money therefore, seemed to me to properly belong to the accused from whom it was removed by the Police, and it should therefore have been returned to them.

I found it difficult to understand by what possible right the Crown wound up as the beneficiary of this criminal case, while the victim had the doleful satisfaction of seeing his assailants sentenced to penitentiary, while the Crown spent the proceeds of the robbery.

I asked for advice on the procedure by which the Crown was able to justify the confiscation of the proceeds of this crime to its own revenue.

I was in due course advised by the Department of the Attorney General that the interpretation of the law in this case seemed to have been a little strict, and that a cheque would be forwarded to me in the amount of $34.65 in favour of the complainant.

The complainant was eventually located at another hotel in another city, the address of which would indicate, that the complainant should exercise due caution in striking up new acquaintanceships on the premises. The cheque has been forwarded to him at that address.

It has been received and duly acknowledged by receipt. The case is therefore closed and shown as Rectified.

69-110-29

This office has from time to time received a number of complaints from prisoners in Provincial Gaols that during their term of imprisonment, some of which were of reasonably short duration, they have been refused dentures which they felt they badly needed.

I have had several discussions with the Director of Correction Services on similar complaints to the one which I am now going to discuss, and it has been ascertained that a certain number of prisoners who are serving a short term, endeavour to avail themselves of their enforced period of confinement to get themselves fully equipped with such appurtenances as new teeth and new glasses.

I do not think that it is going too far to say that these attempts to replace the defects of nature and the ravages of time, at Government expense, during very short periods of imprisonment, had developed into something of a "racket."

The Department of the Attorney General has found it necessary to set up a policy on the manner in which such concessions will be made to prisoners. The policy has been made available to me, and I think it is an extremely sensible one, and while it will give proper concern to those prisoners who are really in need, it does create certain barriers to those who are merely using the Government services to get themselves completely equipped.

In this particular complaint, the complainant received surgery from his own doctor, which surgery was arranged prior to his admission to a Provincial Gaol. The gaol physician agreed to the prisoner's admission to hospital, and attention by his own doctor on the grounds that this was a private matter, but apparently there was no suggestion that a complete extraction of teeth would take place by the prisoner's own doctor at that particular time.

The result was that the prisoner was returned from the hospital without teeth, and although he was to be released on November 1st, he was in September suffering from lack of dentures.

However, his personal physician had certified that this particular prisoner was in real need of new dentures as an aid to his digestion. Apparently he had a digestive ailment which required the utmost and thorough digestion of his food. This, of course, could not be accomplished without the aid of new dentures.

The Department of the Attorney General, under the circumstances, arranged to authorize dentures to be paid for by public funds, but quite properly advised me that this could not be considered as a precedent.

As the dentures were provided, the case was concluded as Rectified.

69-130-3

The complainant in this case, a woman, was referred to the Ombudsman's Office by her solicitor.

She had been involved in a commercial airline forced landing receiving injuries to her back. She had been hospitalized. The large part of her hospitalization expenses were paid from the then Alberta Hospitalization Benefits Plan.

The Department of Health took no action to recover from the Airline Company for the expenditures it had made for hospitalization on behalf of the complainant. However, the complainant's solicitor, on her behalf, entered suit against the Airline Company for damages.

For various reasons, which were acceptable to counsel, a settlement was made out of Court with the insurance company on a one-third basis.

At this stage however, the Alberta Hospitalization authorities claimed from the complainant one hundred percent of monies expended for medical and hospital benefits from the Fund for the complainant.

The insurance company would not settle without a Release, and the solicitor for the complainant therefore offered to turn the case over to the Department of Health so that that Department might institute and prosecute the action itself for one hundred percent recovery.

The Department took no such action, and under the circumstances, the complainant's solicitor was of the view that where there is an apportionment of liability, it had been the custom of the Minister of Health to accept due proportionate benefits by way of refund. In this case the solicitor felt that the Department should not recover more than one-third, on the same basis on which the complainant would recover when settlement was made.

I took the matter up by correspondence with the Deputy Minister of the Hospitals Division of the Department of Health, requesting the reasons for the Department's claim to full reimbursement.

After some further correspondence, the Department of Health placed the matter before the solicitors of the Department of the Attorney General for a legal opinion. The complainant's solicitor had also placed the matter before the Department of the Attorney General.

The opinion which the Department of Health received from the solicitor of the Attorney General's Department, was that it should accept the recommendation of the complainant's solicitor. One of the grounds was that the cost of proceeding with the case and the attendance of witnesses from considerable distances would be very high.

As a result of the opinion received, the Deputy Minister, Hospital Services, advised the complainant's solicitor that the Department was prepared to accept settlement of the claim based on one-third recovery.

Upon receipt of this information, I took the matter up with the solicitor representing the complainant, and received his advice in writing that the matter was now wound up satisfactorily. The complaint was therefore rectified to the satisfaction of the complainant.

69-130-9

This complaint is a good indication of the lack of knowledge of residents of this Province, on the facilities in the Government structure, which are available to them in times of trouble.

The complainant in this case had been in this Province less than a year, and took out a policy under the former Alberta Health Plan, paying the premium for three months. At the end of three months, her employment being intermittent, she had let the policy lapse because she was not able to keep up the payments.

She learned through a friend that there were subsidies under the Alberta Health Plan, and she wrote an application form. She filled the forms out when she arrived, applying for full subsidy, but she learned that the level of coverage could not be changed except on July first of each year. She inquired from the Alberta Health Plan and was told that she should first write, cancelling her old policy which, she did, and then applied for coverage at a subsidized level. As it was, the $12 which was sent to the subsidized plan, had been applied to her account under the old plan. She was also advised that an additional $19 would bring her under proper full coverage.

However, the complainant had a problem in that she was expecting a baby, which she planned to give up for adoption, and apparently she was completely unaware that she could in any way obtain medical or other coverage, except under the Alberta Health Plan.

On the advice of her friend, she sought advice from this office. The matter was referred by my office to the Department of Welfare, and we were at once advised that she could come to the Department of Welfare immediately, and that all her needs would be provided for, and assistance given to her by the Department of Welfare, including financial, medical, counselling and otherwise.

On this advice, my office got in touch with the Unmarried Mothers Unit of the area, and an appointment was made for the complainant immediately so that her mind would be at ease and so that she would know she was going to be taken care of.

As a result of the information received, we were able to advise the complainant, who was at that time present in this office, that she could have an immediate appointment with the Regional Office of the Unmarried Mothers Unit, or if she was tired at this time of day, she could have an appointment the following morning or a Welfare Worker would be sent to her home and she would be interviewed there.

It was also emphasized that she would not have to worry about expenditures incurred because of the birth of the baby, or other implications which might come about as a result.

It was also made clear to her that the Department would assist her in the adoption of her baby, and that she would not have to refund the money expended on her by the Department of Welfare, because she would be completely covered.

This information was a tremendous relief for the complainant and cleared up in her mind the misconception which she had had about the assistance

69-130-9 (Continued)

available for her. Apparently she was under the false impression that whatever assistance was given to her by the Department, would have to be paid back by herself.

So far as the Alberta Health Plan was concerned, a single contribution of $19 brought her into good standing and she was eligible to be covered effective the following July on the subsidized basis.

We made subsequent inquiries and learned that the baby was born and mother and child were both well. The child had been given up for adoption and the Department of Welfare had provided whatever financial assistance and counselling was necessary.

The complainant expressed her appreciation for the assistance given to her.

This complaint is summarized because it illustrates the considerable number of complaints which are directed to the Ombudsman, but where there has been no maladministration, no error on the part of an official of Government, and no failure by any official to carry out the responsibilities of his office.

What has happened is that the complainant has not known of the Government services which were available to him or her, to assist in the particular problem with which he or she was faced.

Despite the silence of The Ombudsman Act in this area, I have felt that there is an inherent obligation in the very nature of the position which the Ombudsman holds where troubled persons seek his assistance, and their complaint is a matter which is not within his jurisdiction, to endeavour, wherever possible, to direct the complainant to some other agency which may be able to be of assistance. Such incidents are almost a daily occurrence and we are constantly directing people to departments of the Federal Government and the various municipal governments, even to the point of making the necessary approach and appointment for them. As a matter of fact, a special filing category under the number 470 has been set up to deal with "Requests For Assistance." This category is used where no specific department or agency of the Government has been named in the original complaint.

DEPARTMENT OF HEALTH

69-130-22

The complainant in this case was a seventy year old married man, who was covered for Health Insurance under the Alberta Health Plan. He complained in May of this year, that there had been an overpayment of slightly over $70 to the Plan, for which he had been trying unsuccessfully to obtain a refund.

He had communicated with the offices of the Alberta Health Plan, but unsuccessfully, and finally brought his complaint to the office of the Ombudsman in May of 1969.

Inquiries made through this office of the Alberta Health Plan indicated that the Department had become aware of its error some considerable time before, and on January 9, 1969, had advised the complainant in writing that the billing notice he had received in July (1968) was in error, and therefore, that a refund for the amount of $71.60 would be forthcoming in the near future. No such refund had been forthcoming.

As a result of the inquiries made by this office, I was advised on June 12, that following the Department's notification of January 9, 1969, to the complainant, that a refund in the amount of $71.60 would be forthcoming, an inter-office letter to initiate the refund was misplaced. As a result, the refund was not forwarded to the complainant.

I was then informed that the refund had been made on June 5, 1969, and the complainant confirmed to me that he had in fact received the refund. Obviously the delay was caused by some internal clerical administrative error.

69-130-42

The complainant in this case was a woman whose handwriting indicated that she was elderly and feeble. Unfortunately she gave no address or the name of the hospital in which she was staying.

The tenor of her letter would indicate that she is probably in some form of convalescent or auxiliary hospital, or as I had suspected, in one of the Provincial Mental Hospitals.

Her complaint was directed against other patients, who according to her, constantly kept a radio going at full blast and tuned to a station which is noted or notorious, depending on your age, for addiction to Rock and Roll.

I communicated with the Division of Mental Health of the Department of Health, and all provincially operated hospitals within receiving distance of the particular radio station, reported that there was no record of any such patient.

It was therefore obvious that whatever hospital she was in was one which was not within my jurisdiction, and there was nothing I could do to assist her, even though I have every sympathy with her problem.

It has been my lot to make numerous visits to hospital during the past year, fortunately as a visitor only, and I have been struck by the constant din of radios in the Wards. I have noted on occasion that this is particularly hard on elderly patients, who were in the same Wards as young patients, who had brought their transistor radios with them, and quite understandably wanted to pass the boredom of hospital life by hearing a little of their favourite sound.

Most transistor radios are supplied today with an ear plug and cord, which if inserted in the radio, cuts out the loudspeaker and provides sound only through the ear appliance. I find it difficult to understand why hospitals do not insist on this procedure, except in rooms which are properly set aside for television or radio, or other recreational activities.

69-140-4

The complainant in this case was employed as a probationary Driver Examiner with the Department of Highways. His complaint to me was that he had been discharged from his position unfairly, and he based his complaint, to some extent, on personal antagonism against him on the part of his superiors in the Department.

As the complainant had less than one year's service, he may be discharged without having recourse to the usual appeal procedure which applies to permanent civil servants. He has, however, a right to seek the assistance of the Grievance Committee of the Civil Service Association, which he did without success.

I investigated this case to assure myself, as the Department indicated to me, that this man had been discharged on grounds of inefficiency, and not through any personal feelings on the part of his superiors.

I found that he had been grossly inefficient. He had been unable for a considerable time to successfully pass his own driver's test, and this for a man who was expecting to become a Driver Examiner. Throughout his short career his work was extremely careless, and this carelessness and seeming lack of any desire to improve himself, was commented on by all those who were responsible in any way for the supervision of his duties, and preparing him for his future career.

Before the decision was taken to finally release him, the file clearly indicates that efforts were made to seek employment for him elsewhere in the Government service, but his reports were of such a nature that this could not be achieved.

I could find no fault whatsoever with the manner in which this man had been released from the Government service and very obviously, from my inquiries, he was given more consideration than perhaps I would have been inclined to give him myself, under similar circumstances.

69-170-3

The complainant in this case is in the cattle business. A relative of his had found one of his cows dead in the middle of a field, and suspected that it had been shot, as this was during the hunting season.

In such cases compensation can be paid through the Department of Lands and Forests under authority of The Wildlife Damage Fund Regulation. One of the requirements to substantiate a claim that an animal has been shot by a hunter, is an investigation by the R.C.M.P. In this case, the matter was reported to the R.C.M.P. and in due course, a claim was made to the Department in the amount of $1,000. This amount was mentioned in answer to a question on the form which had to be filled out.

However, the complainant added a footnote to his application, in which he stated that the cow was being used for research purposes, and the value of the cow would really be over $3,000. He indicated that he felt that the Department of Agriculture should make compensation on the grounds that it was an Agricultural Project.

The complaint was declined by the Department on the grounds that it had not been sufficiently established that the animal was shot by a hunter.

The complainant then complained to me, but he neglected to mention the previous amounts which he had claimed, namely $1,000 and $3,000. By the time his complaint was received by me, the value of this unfortunate animal had risen to the amount of $4,000.

I was, of course, unaware of the amounts of the previous claims to the Department of Lands and Forests, and I therefore, advised the Deputy Minister of the receipt of the complaint. When the Deputy Minister had had an opportunity to peruse the file, he communicated with me, and we had a meeting, at which he advised he had come to the conclusion that the results of the Police Report were sufficiently inconclusive that the Department, although it was itself not at fault, should make restitution in this case. It will therefore be seen that the case was rectified by the Deputy Minister himself, following his perusal of the file and without my having to make representations to him, other than bringing the original complaint to the attention of the Department.

I fully agreed with the views which the Deputy Minister took.

It is perhaps unfortunate that the Police Report was not more helpful. When the Constable first observed the animal, he was enroute to a Court hearing in another town, and admittedly was not in a position to examine the animal at that particular time.

He was subsequently called away on another matter for some days by which time the deceased animal had been picked up and carted to a Processor. The Constable did examine the animal at that point, but it was found by then to have been chewed by coyotes, and there was no trace of gunshots which could be found. However, the Constable in his report did state that in his opinion, the animal had been shot by an unknown hunter. It was on the basis of this last statement, that the Deputy Minister decided that the Department should assume responsibility for restitution. I myself find it a little difficult to find how the conclusion could be reached based on the evidence which was in the Report. My

own opinion of that Report would have been that the conclusion should have been inconclusive one way or the other.

However, the Regulation referred to above sets a maximum figure of $500 in restitution and this has been paid to the complainant.

In my concluding letter to the complainant, I referred to the accelerating value of the deceased animal as follows:

> "The only figure which you gave me in your claim was $4,000, and I can assure you that had I taken action on your behalf and found during my investigation that you had originally made a claim of only $1,000, I would have discontinued my investigation forthwith.
>
> If I am to assist people in obtaining justice, I am entitled to know all the facts."

One is reminded of the comment of the late Sir Edward Beattie, President of the Canadian Pacific Railway when commenting on complaints against the company, he said: "I can never understand why our engines never hit anything but thoroughbred horses and purebred cattle."

69-170-4

The complainant in this case is a professional trapper, and has held a permit for a registered trapline for over twenty years in Southwestern Alberta. For the past ten years he has almost solely supported his family from the proceeds of his trapline, and he has built up a business of trapping animals alive for Zoological Gardens and Universities, as well as trapping for fur.

During the Spring of 1969 he caught one more wolverine in excess of the number of permits he had on hand. He notified the Fish and Wildlife Division of the Department of Lands and Forests that he had the animal alive, and that a zoo would be applying immediately for a collection permit for it. He stated that he got no response to his letter, and he then wrote again to the Department.

On the second occasion according to the complainant, the Department caused the animal to be seized and the complainant was charged with illegally holding it. He pleaded not guilty and two months later after several remands, he was found guilty. The Magistrate imposed a minimum fine with no Court costs. However, the animal was confiscated and the complainant's trapping privileges were suspended by the Department.

He complained that as a result, he was forced to ask for Social Assistance.

The complainant stated that this was the first infraction which he had in over twenty years, and asked the intervention of the Ombudsman.

I referred the matter to the Deputy Minister of the Department of Lands and Forests, and indicated my intention of conducting an investigation.

The complainant had also in the interim, retained a solicitor who had made representations on his behalf to the Department.

In due course I was forwarded a copy of a letter addressed to the complainant, signed by the Administrator of Fish and Wildlife, advising him that the Honourable the Minister of Lands and Forests had indicated his intention to exercise his authority pursuant to Section 154, Subsection 3, of The Game Act, and to reinstate the complainant's Trapline Renewal Certificate for his Registered Trapline.

I advised the complainant of the results and in due course received a letter of thanks from him. The complaint is therefore shown as Rectified.

69-190-2

The complainant in this case had acquired several quarters of land in the Northern part of the province. Some years ago he sold a number of these to his son, and retained two parcels of land in his own possession. He runs sheep on these quarters of land.

There is a small one-room building on each quarter which is used as cover during work on the land.

The complainant resides on the old home quarter which he transferred to his son, and does not live on either of the two quarters referred to.

However, he made a claim for the Homeowner's Tax Discount to the Department of Municipal Affairs, but was advised he could not qualify because he did not occupy the "residence" on the quarter section, other than the one on which he resides permanently, for at least 120 days out of the year.

He appealed to me on the grounds that for the past twelve to fifteen years he has not had access to the two quarters referred to, because the bridge over the creek had not been kept in repair, and had collapsed, and the type of road into the property is not passable. He indicated that if there were a proper road in there, then he would have lived on his property most of the year.

As he did not have the necessary residence qualifications, I could do nothing to assist him in obtaining the Homeowner's Tax Discount. He then wanted either roads built and the necessary bridge or bridges into his property, or in lieu of that, that his taxes be remitted.

I had to take into account the density of population in the area in which he wanted the road built, and I found that it was practically uninhabited for considerable distance. He was using his own quarters for sheep grazing only, and there was no active agriculture beyond his property for a great distance.

Considering the demand on the Government for roads and road improvements, I could under no circumstances see my way clear to make such a recommendation for him. The complainant has seen fit to dispose of the home quarter to one of his sons and he lives on that quarter with his son.

I could not see my way clear to ask the Government to build bridges for one family, or to provide a Homeowner's Tax Discount to a man who does not live in the house for which he is asking the discount. The complaint was therefore shown as Not Justified.

69-190-11

For details of this complaint, see summary under Department of Agriculture, 67-100-5.

69-210-5

The complainant in this case is a man of sixty-three years of age, somewhat crippled and according to his doctors, he should not be working. He is, however, operating a farm in the northern part of this province.

In past years he has received small monthly welfare allowances, which helped at least to see him through the year. Each year he filled out a declaration to the Department of Welfare (now the Department of Social Development) showing the quantity of various crops harvested in that particular year.

He had completed such a form in the Fall of 1968, and for reasons unknown to him, had been completely cut off from welfare assistance.

In his letter to me, he stated that he had declared the number of bushels of grain which he had combined in the previous Fall, and through this he believed he had been disqualified, even though he could not sell one bushel of that grain. He stated to me that the grain was so damp that it would have to be dried, but he did not have the money to carry out such an operation. He further stated that he had only one quarter section of land so that his income was limited.

He advised that he was physically handicapped with no education. He could hardly write his name and yet in the particular year he referred to, he stated that he could not receive help of any kind even though he had a loss instead of an income for the year 1968. He further stated that he had written to the Department of Welfare explaining that even though he had a few bushels of damp grain on hand, he could not sell them, and they were not providing him, in any way, with any income.

I directed this complaint to the Deputy Minister of the Department of Welfare, stating that in view of the complainant's age and apparent physical condition, I attached some urgency to the matter, and asked that it be given urgent attention.

The investigation carried out by the Department of Welfare indicated that although the complainant had some grain in reserve with a potential market value of approximately $1,980, the condition of the grain was such that it could not be sold at that time. As a result, a welfare budget of $104.20 a month was provided for him.

I can only comment that in this particular case, which I am showing as Rectified, the Department of Public Welfare, as it was known at that time, wasted no time in making an investigation and rectifying the situation in which this unfortunate man found himself.

69-200-2

The complainant is a man of forty odd years of age, and has been in the insurance business since 1951.

He had decided to complete a B.A. Course at the University by taking one subject each term at the University of Saskatoon.

It is the policy of the Department that a person who resides in the City of Edmonton or the City of Calgary, and who does not intend to be engaged full time in the business of life insurance, should not receive a Certificate of Authority. Attendance at a University has been considered as indicating that an applicant does not intend to devote his full time to the life insurance business.

In fact, the complainant in his application, apparently failed to make it clear, that he was attending University only on one course, and it was taken for granted that he was a full time student. Apparently it was not made clear either, that he was a life insurance agent who had been in the business for a number of years.

When the facts were brought to the attention of the Department, the matter was immediately rectified and a license was issued to the complainant.

It should be added here that during the inquiry, I also ascertained that it is the policy of the Department to issue University students with a probationary life insurance agent's license during the summer months, when they are not at University, and after careful inquiry into the circumstances of the application reveals that the student intends to make a serious attempt to pursue life insurance work as a career.

This appears to have been a case of a complete misunderstanding where the Ombudsman's function was merely to obtain the full facts and get them to the attention of the Department of the Provincial Secretary, where the complaint was immediately rectified.

PUBLIC SERVICE PENSION BOARD

69-350-6

The complainant in this case complained in August of 1969 that he had retired as a former employee with the City of Edmonton, but that he had not yet received his first pension cheque, although he had been retired from the City employment on pension on May 2, 1969.

I ascertained pensions for employees in this category in the City of Edmonton are administered through the Public Service Pension Board of the Province of Alberta.

I then referred the matter to the Chairman of the Public Service Pension Board, namely the Provincial Treasurer, and was in due course advised that the matter of the complainant's pension savings cheque had been overlooked, but was being attended to immediately.

I immediately advised the complainant that his cheque would be forwarded to the City and was probably at that time in the hands of the City of Edmonton for forwarding to him. I advised him that if he did not receive the cheque, he could communicate directly with the City of Edmonton or with me.

As I heard nothing further from him, I advised the Chairman of the Public Service Pension Board that so far as I was concerned the matter was rectified, and I expressed my appreciation to him for the cooperation received during this inquiry.

69-330-2

This was a complaint by a woman on behalf of herself and approximately ten brothers and sisters, against the manner in which the Public Trustee was handling the estate of a brother who was a patient in an Alberta mental hospital. The estates of persons who are committed to mental hospitals within this Province are generally administered by the Public Trustee under special laws governing such administration.

The complainant and her brothers and sisters had all been apparently in "necessitous circumstances" according to documents submitted to the Courts. Certain allowances from the estate of the unfortunate brother in the mental hospital were made on a monthly basis to his brothers and sisters.

Generally speaking, the complaint boiled down to the fact that the complainant and her family were not receiving, what they considered sufficient benefits from the fund, and the complainant blamed the Public Trustee for maladministration of the estate.

However, my investigation revealed the complainant had not been entirely forthcoming in presenting her complaint to me. The complainant's father left his entire estate to the complainant's mother. The property was transferred into her name as executrix of the estate. However, for some reason, unknown to the Public Trustee or myself, the property was at that point transferred into the names of the present inmate of the mental hospital and some of his brothers. The complainant advises that the property was transferred to her brother's name, so that her mother would be able to draw her Old Age Pension, as there was a Means Test at that time.

If the allegation that this transfer of property from the mother was done in order to evade the Means Test for Old Age Pension is correct, there must have been a bitter pill to swallow later when oil was struck on the land, in quantity.

The brother to whom the estate had passed, was the sole owner of the mineral rights.

In due course, the mother took legal action, advancing the argument that her son, now an inmate of the mental hospital, had been holding the property purely as a Trustee for his mother. Had this argument been accepted by the Court it would in effect have meant that the brother who was in the mental hospital, would have lost everything.

According to the information made available to me, an out of Court settlement was reached between the Public Trustee, acting on behalf of the inmate, and the solicitor for the complainant's mother, resulting in a settlement to her of $10,000 cash, plus $200 a month for life. At the time of this investigation, she was in apparent good health and into her nineties.

She was, of course, required to execute a Release whereby she waived any right of action she might have at that time or in the future, against her son, as a result of the settlement made.

Following the settlement of the mother's claim, the complainant and her other brothers and sisters, moved to obtain some share of this property, which

is considerable. The oil royalties alone have at times been more than $1,500 per month, and aside from the value of the land itself, there is better than $120,000 in this estate.

The claims of the mentally incompetent's brothers and sisters, were referred to the Courts and the Court concluded that there was legal authority which would enable the Court to provide some modest assistance to the complainant and the others. This assistance was provided, as the Court was satisfied that the applicants had demonstrated a need.

Further actions were taken by the brothers and sisters to have the monthly amount increased but the presiding Justice awarded a cash payment in lieu of any increase in the monthly allowance, and a further Court subsequently awarded an additional cash payment. I can only presume that the Court is exercising due caution against providing a substantial sum to the complainant and her brothers and sisters, as there is always the possibility that the mentally incompetent brother may subsequently recover and decide to dispose of his own estate as he sees fit.

Far from criticizing the manner in which the Public Trustee has administered this estate, I was very much impressed with the very careful and business like manner in which the affairs of this estate have been handled by the Public Trustee and his officers.

It is the duty of the Public Truste to represent the best interests of the inmate of the mental hospital whose estate has been entrusted to him. In one instance in this case, he appealed the decision of the Courts to increase the amounts of money granted to the relatives. The appeal upheld the order of the lower Court.

In other words, the Public Trustee has now assured himself by his action that he has absolutely no authority whatsoever to pay out to the complainant anything more than the monthly amount already approved by the Court. It would take a further order by the Court to change the status quo. The Public Trustee's stand with the complainant has been that if there is to be any increase in the monthly allowance, it must be authorized by the Courts, and in this stand he is fully supported by the action which he took before the Appeal Court.

I found this complaint completely unjustified, and indeed it is an excellent example of careful concern for the estates of the incompetent on the part of the Public Trustee of this Province.

69-330-5

The complainant in this case had been a patient in an Alberta Mental Hospital for a number of years, and was eventually released. However, as he was not regarded competent to manage his own affairs, and as he was a very elderly man, the administration of his estate remained in the hands of the Public Trustee.

He complained to this office to the effect that his detention in the Mental Hospital had been improper and illegal, and that an estate something in the neighbourhood of half a million dollars had been the subject of maladministration in the office of the Public Trustee.

Investigation revealed that his committal to an Alberta Mental Hospital had been quite legally and properly carried out, and that his subsequent medical condition in the hospital was such as to require that he be retained there.

It was equally ascertained including a personal interview, that he was not competent to manage his own affairs. The interview with him revealed that the sum of half a million dollars referred to was in fact not a sum in the hands of the Public Trustee, but a sum which he was demanding as compensation for his alleged improper committal to a Mental Hospital.

A thorough investigation with the cooperation of the Public Trustee, indicated that there were modest sums being administered by the Public Trustee, as a result of the sale of his parcel of land and other properties, when it became obvious that he would be no longer able to look after them himself. There is not the slightest indication of anything but the most proper handling of his affairs in conformity with existing legislation and good business practice. The complaint was therefore found to be not justified.

The complainant resides in a private home with a family where he is in apparent good hands.

69-330-6

The complainant in this case is the mother of two children. She had been divorced from her husband. Her husband subsequently remarried and eventually he and his second wife were both killed together in a car accident. As his second wife was younger than her husband, the presumption was that she had died after her husband, and therefore his estate would normally go to his wife. His second wife's father made application to have such a situation arrived at.

However, the Public Trustee took steps to ensure proper maintenance for the two children of the deceased man by his first wife.

Proper provision was made and a monthly sum allotted for the care and education of these two children, who were resident with their mother. The amounts payable for the maintenance of the two children were generally satisfactory to the mother, the first wife of the deceased man, but with the increased cost of living the requirements for additional funds became necessary in the view of the mother of these two children.

However, she did not take her problem to the Public Trustee as one might have anticipated, but referred it to this office. As a result the matter was discussed fully with the Office of the Public Trustee. As a result of these discussions, and without any recommendation being necessary from the Office of the Ombudsman, the officers of the Public Trustee came to certain decisions and recommendations which were approved by the Public Trustee.

The result was that the allowances on behalf of the two children were increased, and a full statement of the disbursements of the estate of the late husband was made to his first wife. It might be mentioned that the first wife had, in the interim, remarried and for this reason there had had to be some readjustment considered of the amounts payable to the children, which had created problems in her own mind.

The matter was settled to the entire satisfaction of the mother of the two children, and I received a very appreciative letter from her.

The decisions taken by the Office of the Public Trustee to create the amounts of allowance to the two children were not as a result of any representations made by the Ombudsman. I feel sure that the same result would have been received if the mother had taken her case directly to the Office of the Public Trustee. However, her remarriage had created some misunderstandings which have been now settled to the satisfaction of the complainant and in accordance with the operations of the Office of the Public Trustee.

In view of the fact that the action taken by the Public Trustee was on his own initiative, I have shown this file as discontinued rather than rectified.

69-300-19

In March of 1969 I received a complaint from the complainant in this case, who advised that in April of 1964 he hurt his back while working for a Storage Company. As a result of various medical examinations, he applied for compensation.

In general, his complaint was that compensation had been cut off and that he was still, in his view, entitled to compensation due to the injuries which he had had, and which were still bothering him as late as 1969.

On March 31, 1969 I advised the Chairman of the Workmen's Compensation Board of this complaint, and asked if he would designate an official with whom my Investigator could discuss this case.

On April 15, 1969, I was advised by the Chairman of the Claims Review Committee of the Workmen's Compensation Board, that the file of the Board revealed from medical evidence that the workman had recovered from his accident by May 19, 1964, and compensation was paid to that date.

This letter also indicated that further medical reports were submitted in 1965 and in 1968, and that the Medical Department of the Workmen's Compensation Board had reviewed the medical history on various occasions. I now quote from that letter:

> "On the evidence, it was unable to find that the workman's continuing disability was attributable to the accident in question."

The letter further indicated that the workman had not requested an examination under Section 27 of The Workmen's Compensation Act. It is quite true that he had not requested an examination under Section 27 of that Act, which is a form of final examination. Neither at any time had he ever been advised that he had a right to such an examination under Section 27.

Elsewhere in this report I shall be recommending consideration of the proceedings of the Workmen's Compensation Board whereby applicants who have applied for compensation and have been rejected, are not usually advised that they have any rights of appeal.

When it was ascertained that this complainant had not had an appeal under Section 27, it was necessary to advise him that there was an avenue of appeal open to him via Section 27 of The Workmen's Compensation Act, and until he had taken that route of appeal, the Ombudsman could not assist him further.

As a result of this information, the complainant applied for an examination pursuant to the provisions of Section 27 of The Workmen's Compensation Act. As a result of the medical evidence obtained at that time, the Board reviewed his claim.

The examining doctors certified to the Board that he had a disability as a result of his accident of April 20, 1964.

He was further advised that for this disability as now assessed, he would receive compensation at the rate of $13.25 per month, effective from May 19, 1964. Enclosed with the letter which gave him that information was a cheque

69-300-19 (Continued)

in payment for the period from May 19, 1964 to June 15, 1969, and he was further advised that future payments would be mailed on the fifteenth day of each month.

It is highly unlikely that this complainant would ever have known that he had any rights of appeal whatsoever, if he had not applied to the Office of the Ombudsman.

While the records of this office will show this complaint as "Declined", it had to be declined inasmuch as this office ascertained and advised the complainant that there was a further avenue of appeal open to him, which prevented the Ombudsman from taking action on his behalf until that avenue of appeal was followed. As a result of him following that avenue of complaint and asking for an appeal under Section 27, he was granted a pension retroactive from 1969 until 1964.

69-300-31

This complaint indicates the great benefits which resulted from the legislation at the last Session by which subsidies were provided from public funds to supplement compensation under The Workmen's Compensation Act in view of the rising changes in the cost of living.

The complainant's original complaint had to do with his inability to subsist on a pension of $43.33 per month. This pension was awarded based on his earnings at the time and was one hundred percent pension.

At the time this pension was awarded, there was no legislation authorizing any increase, based on cost of living index or other factors. The result was that a great many pensioners, who were receiving compensation, and had been receiving compensation for many years, were in fact in receipt of compensation at a ridiculously low figure under modern conditions.

When the amendment was passed by the Legislature and became effective on May 1, 1969, by which the Government supplemented these older pensions on a special cost of living index, this man's pension rose at once to $175 a month.

I had been required previously, of course, to advise the man that I had no jurisdiction, because the pension granted to him was as a result of legislation, and there was no administrative error or faulty decision by the Board in any way which I could question. As will be understood, I could not, of course, criticize the general legislation.

It was entirely due to the new legislation that this man's pension was raised, and I summarize this case particularly to illustrate what a great improvement has taken place in the number of cases of people, who have been receiving ridiculously low pensions, based on small salaries as they existed many years ago.

69-400-9

The complainant in this case pointed out that the Council of the Town, in which the complainant lives, had made a grant to a charitable organization, a Service Club, in an amount greater than that which was authorized by law.

If this were purely a matter within municipal jurisdiction, then I of course had no jurisdiction to carry out an investigation. However, the allegation was that there was a contravention of The Municipal Government Act, and that there might possibly be some cause for the Department of Municipal Affairs to interest itself in this matter.

My inquiries from the Department of Municipal Affairs brought forward the information that under Section 206 of The Municipal Government Act, a Provincial Act, a Council has authority to make grants to any charitable organization.

The Section also states that the aggregate grants that may be made under this Section in any one year, shall not exceed one-half mill on the net total assessment of the municipality upon which taxes are levied.

In the case of this particular Town, the total assessment was approximately one and one-half million dollars. It was estimated that the limitation of the amount of grant at one-half mill, if calculated on the assessment of land and buildings only, would be just about $600. If the limitation was calculated on the total assessment, it would be just over $700.

Apparently, the total grant made was in the neighbourhood of $1,400, which was in excess of the maximum permitted by Section 206 of The Municipal Government Act.

The complainant was a resident of the Town and felt that some action should be taken by the Provincial authorities in what the complainant regarded as a clear violation of the law.

My inquiries further indicated that the opinion as to the interpretation of a section of an Act, or an expression of opinion as to whether or not the action by a Council or an individual is proper, is not one that should be taken or perhaps could be taken by an official of the Department of Municipal Affairs. It was regarded as very doubtful by the Department that any official of that Department could declare the action invalid and order corrective action. It was felt, and there appears to be good authority for this opinion, that only the Courts could make such decisions and issue such orders.

Indeed it was felt that the discretionary powers which the Minister of Municipal Affairs could exercise would probably not authorize him to make decisions, which rightfully come within the jurisdiction of the Courts. The view of the Department was that in the case referred to, there was no doubt that the Council of the Town had authority to pass a by-law for the purpose of making grants, but whether such a by-law was a valid one was a matter for the Courts to decide.

I felt the opinion of the Department was sound and based upon the thorough research of the situation and past experience. Under the circumstances, the matter then, in my view, reverted to the Town Council and was therefore beyond my jurisdiction.

69-400-9 (Continued)

I suggested to the complainant that the matter could be referred to the auditors for the Town, but it would appear that any other action could only be prompted if a private citizen or a group of citizens decided to take legal action before the Courts.

The question does arise, that if there is a seeming clear violation of a Provincial Statute by a Town Council, whether or not there should be some onus upon the Department to request the Attorney General to inquire into the matter, and, if the evidence warrants, take whatever legal action would appear to be called for.

While I have not, of course, confirmed the allegations as I did not carry out any further investigation, it would seem that where there is an infraction of a Provincial Statute, as in this case, it is left to the private citizen to take legal action, presumably at his own expense. I suspect such actions will be rare.

PRIVATE MATTER

69-420-36

The complainant in this case, a woman, forwarded a most pitiful appeal for assistance to be relieved of pressure from her creditors. The circumstances were indeed extremely distressing, particularly in view of the fact that she was a recipient of welfare. She was employed part-time as well. At the time her letter was written, she had finally been served with a Statement of Claim involving an outstanding debt.

She outlined the amount of some of the debts for which she was being pressed, and I found it difficult to ascertain how, in at least one case, she could be owing over $1000 to a Department Store.

She complained that she had been to the office of the Debtors' Assistance Board, but felt that she had been insulted by being accused of being a compulsive buyer.

Due to the desperate tone of the letter I received, I took the matter up with the Debtors' Assistance Board, and made sufficient inquiries to bring me to a conclusion.

The likelihood of this woman ever getting out of debt by her own efforts is absolutely nil. Her only hope is to place herself within the provisions of the Orderly Payment of Debts Procedure; that most excellent office, who activities on behalf of persons under crushing loads of debts is saving homes and families continually.

This she was not prepared to do. There is no doubt that she is a compulsive buyer. There is no doubt that she has acquired debts far beyond her capability to pay. She had been offered every opportunity to enter into the arrangements under the Orderly Payment of Debts Procedure, but she had refused and had taken refuge in the belief that she was being insulted by being told that she was a compulsive buyer. The remarks which were made to her, far from being insulting, were the cold hard facts of life she needed to be told.

Apparently she was just not prepared to admit her weakness, but instead sought sanctuary in a dream that she was going to make a very large salary in a few months, and if her creditors would just remain patient, all would come out well.

I wrote her as serious a letter as I have written since I took office, and I urgently recommended to her, that while I had no jurisdiction to assist her, she should go to the Debtors' Assistance Board again, and place herself entirely in their hands, being sure to give them every bit of information which they required. I informed her that I knew of no other place in this province where she could get the same kind of help, and which would give her some prospect of being eventually clear of debt. I further advised her that I felt sure that the remarks which had been made to her at the Debtors' Assistance Board, and to which she objected, were not nearly as harsh as some of the remarks she was receiving from collection agencies and creditors.

I completed my letter with the following paragraph:

> "I can only reiterate that you take your case to the Board, swallow your pride, and place yourself entirely in the hands of the Board. It will not be easy and it will mean a long hard pull of very, very economical living. I know of no other solution for your situation."

I recommend this procedure to all others in a similar position.

PRIVATE MATTER

69-420-87

The complainant in this case ordered a power saw offered for sale by mail advertising from a firm in Eastern Canada. The brochure mentioned a ten day free home trial.

After waiting several weeks, he was advised by the company that there was a shortage of parts, and that his saw would be mailed to him within the next five days.

He did not receive the saw, but some time later he received a letter stating that he was in default of payment. He then wrote back to the company stating that he had not received the saw, but that when he did receive it, and, if he found it satisfactory, he would gladly pay for it.

He received a letter advising that they had not heard from him, nor had the company received any payment so that they could only assume that the saw had not been delivered, and they would send another. However another saw did not arrive.

The next letter he received from the company stated that the saw had been delivered, and that he should bring his account up to date. He replied to that letter stating that he had not received the saw, and he asked what date it was delivered, what company did the delivering, and who in his house had received the saw.

He received another dunning letter and eventually, approximately a month later, the saw itself arrived.

The complainant picked up the saw at the Post Office. He had the postal clerk stamp the outside of the box, to show the date of pickup. The complainant then took the parcel home. He wrote a letter to the President of the company, stating that he was returning the saw unopened, and then he took the parcel and the letter, and sent it by insured postage back to the company.

The result was yet another letter from the company asking why he had not been making payments on his account. The complainant did not reply to that letter as he felt it might have taken longer for the letter and the returned saw to reach the company. The ultimate occurred when about a month later he received another letter from the company, stating that the company would start legal proceedings unless he sent them payment for the saw.

He then wrote a full explanatory letter to the company, explaining all the details of what had happened, and advised the company that he was referring the matter to the Ombudsman.

The complainant referred the matter to me, but as there was no complaint against any Agency or Department of the Government of the Province of Alberta, I, of course, had no jurisdiction to act in this matter.

However, I took the matter up with the Supervisor of Consumer Credit for the Province, who immediately agreed to look into the matter and as a result, I forwarded to him copies of all correspondence which I had received from the complainant.

69-420-87 (Continued)

I advised the complainant of the action which I had taken, and in due course, I received a letter from him saying that everything had been satisfactorily straightened out, and that he was very pleased indeed with the action taken. I expressed my own appreciation to the Supervisor of Consumer Credit for the very quick and favourable manner in which this complaint had been rectified.

This case is an illustration of the type of complaint which the Ombudsman's Office receives in considerable quantity from persons who have been pestered by some business firm, or who have been the victims of doubtful sales methods. So many of these people are completely unaware of the fact that there do exist Branches of Government Departments expressly set up for the purpose of assisting people who find themselves in such a position.

This office undertakes in such cases to locate the requisite Branch, and to forward the complaint to the Branch for its attention. I have been extremely pleased at the very ready response which such references receive and the manner in which such complaints are attended to.

NO SPECIFIC COMPLAINT MADE

69-450-9

The complainant in this case forwarded an original letter which he had obviously not written himself, and the letter indicated that he was not fluent in the English language, and would like a personal interview with a member of the staff of the Ombudsman's office. The nature of the complaint was not revealed.

Arrangements were made to have the complainant interviewed by the Chief Investigator, with the assistance of an interpreter.

His problem was thoroughly explained and it turned out to be a civil matter beyond the jurisdiction of the Ombudsman. The reasons for lack of jurisdiction were explained to him through the interpreter, and he was advised to seek the advice of a solicitor.

The present, rather small, staff of my office is able to deal with complaints in five languages, and there is no hesitation about obtaining additional assistance in the matter of language, where any complainant or witness may feel that he is not able to make himself completely clear in English.

69-460-17

The complainant in this case was involved in a paternity case before the Courts, instituted by the Department of Public Welfare, at which he was apparently declared to be the father of the child and was assessed certain sums including a monthly payment in support of the child. He flatly denies that he is the father of the child.

In his appeal to me he protested his innocence and stated that he had been unjustly convicted, to use his own term. He asked for the assistance of the Ombudsman, apparently to reverse the order of the Court.

He advised me in his letter that he had been represented and was still represented by a firm of solicitors.

I was obliged to advise the complainant that in view of the decision of the Court I had no authority to intervene on his behalf, and I pointed out the fact to him that he had been represented by legal counsel. There was, of course, always the opportunity to enter an appeal, which he apparently did not do.

The complainant brought his complaint to me at a time when he was still represented by legal counsel. I mention this case specifically to indicate a policy which I have adopted. I have had a considerable number of persons who, while represented by counsel, have come to me as Ombudsman to obtain my opinion of the advice they have received from counsel.

Such a situation occurs most frequently when a complainant has been through a trial or a civil suit before the Courts and has lost his case. He may be advised by counsel that he should enter an appeal. He will then come to me, giving me his version of the facts and asking for my views as to the wisdom of his counsel's recommendation.

Despite these compliments to my layman's knowledge of the law, it would of course be most improper for me to attempt to advise them about such problems.

I have made it a point of policy that where the complainant has a solicitor, I will not undertake an investigation on the complainant's behalf, until such time as I am assured that his solicitor is well aware that the complaint has been made to me, and has had an opportunity to express his own views to me as to whether he thinks there is, or is not, a case for the Ombudsman.

On occasion I have myself communicated with a solicitor for a complainant, advising him that I propose to take no action unless he himself indicated to the complainant or to me, that he felt there was some matter in which the Ombudsman had jurisdiction and could assist in the complainant's problem.

Very obviously the client's interests could be seriously jeopardized if his solicitor and I were working independently of each other, and possibly without the knowledge of each other.

APPENDIX V

Pertinent Sections of The Act

Appendix V

THE OMBUDSMAN ACT 1967

Texts of Sections Referred to in Summary

11. (1) It is the function and duty of the Ombudsman to investigate any decision or recommendation made, including any recommendation made to a Minister, or any act done or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by any department or agency, or by any officer, employee or member thereof in the exercise of any power or function conferred on him by any enactment.

(2) The Ombudsman may make an investigation either on a complaint made to him by any person or of his own motion, and he may commence an investigation notwithstanding that the complaint may not on its face be against a decision, recommendation, act or omission as mentioned in subsection (1).

12. (1) Nothing in this Act authorizes the Ombudsman to investigate

(*a*) any decision, recommendation, act or omission in respect of which there is under any Act a right of appeal or objection or a right to apply for a review on the merits of the case to any court or to any tribunal constituted by or under any Act, until after that right of appeal or objection or application has been exercised in the particular case or until after the time prescribed for the exercise of that right has expired, or

(*b*) any decision, recommendation, act or omission of any person acting as a solicitor for the Crown or acting as counsel for the Crown in relation to any proceedings.

(2) If any question arises as to whether the Ombudsman has jurisdiction to investigate any case or class of cases under this Act, he may, if he thinks fit, apply to the Supreme Court of Alberta for a declaratory order determining the question.

14. (1) If in the course of the investigation of any complaint it appears to the Ombudsman

(*a*) that under the law or existing administrative practice there is an adequate remedy, other than the right to petition the Legislature, for the complainant, whether or not he has availed himself of it, or

(*b*) that, having regard to all the circumstances of the case, any further investigation is unnecessary,

he may in his discretion refuse to investigate the matter further.

(2) The Ombudsman may, in his discretion, refuse to investigate or cease to investigate any complaint

(*a*) if it relates to any decision, recommendation, act or omission of which the complainant has had knowledge for more than 12 months before the complaint is received by the Ombudsman, or

(*b*) if in his opinion,

(i) the subject matter of the complaint is trivial, or

(ii) the complaint is frivolous or vexatious or is not made in good faith, or

(iii) the complainant has not a sufficient personal interest in the subject matter of the complaint.

(3) Where the Ombudsman decides not to investigate or to cease to investigate a complaint, he shall inform the complainant of his decision and he may, if he thinks fit, state his reasons therefor.

17. (3) Subject to subsection (4), a person who is bound by any Act to maintain secrecy in relation to, or not to disclose, any matter is not required to

(*a*) supply any information to or answer any question put by the Ombudsman in relation to that matter, or

(*b*) produce to the Ombudsman any document, paper or thing relating to it,

if compliance with that requirement would be in breach of the obligation of secrecy or non-disclosure.

(4) With the prior consent in writing of a complainant, any person to whom subsection (3) applies may be required by the Ombudsman to supply information or answer any question or produce any document, paper or thing relating only to the complainant, and it is the duty of the person to comply with the requirement.

20. (1) This section applies where, after making an investigation under this Act, the Ombudsman is of opinion that the decision, recommendation, act or omission that was the subject matter of the investigation

(*a*) appears to have been contrary to law, or

(*b*) was unreasonable, unjust, oppressive, improperly discriminatory or was in accordance with a rule of law or a provision of any Act or a practice that is or may be unreasonable, unjust, oppressive or improperly discriminatory, or

(*c*) was based wholly or partly on a mistake of law or fact, or

(*d*) was wrong.

(2) This section also applies where the Ombudsman is of opinion

(*a*) that in the making of the decision or recommendation, or in the doing or omission of the act, a discretionary power has been exercised

(i) for an improper purpose, or

(ii) on irrelevant grounds, or

(iii) on the taking into account of irrelevant considerations, or

(*b*) that, in the case of a decision made in the exercise of a discretionary power, reasons should have been given for the decision.

(3) If, where this section applies, the Ombudsman is of opinion

(*a*) that the matter should be referred to the appropriate authority for further consideration, or

(*b*) that the omission should be rectified, or

(*c*) that the decision should be cancelled or varied, or

(*d*) that any practice on which the decision, recommendation, act or omission was based should be altered, or

(*e*) that any law on which the decision, recommendation, act or omission was based should be reconsidered, or

(*f*) that reasons should have been given for the decision, or

(*g*) that any other steps should be taken,

the Ombudsman shall report his opinion and his reasons therefor to the appropriate Minister and to the department or agency concerned, and may make such recommendations as he thinks fit and in that case he may request the department or agency to notify him within a specified time of the steps, if any, that it proposes to take to give effect to his recommendations.

(4) If within a reasonable time after the report is made no action is taken which seems to the Ombudsman to be adequate and appropriate, the Ombudsman, in his discretion, after considering the comments, if any, made by or on behalf of the department or agency affected, may send a copy of the report and recommendations to the Lieutenant Governor in Council and may thereafter make such report to the Legislature on the matter as he thinks fit.

(5) The Ombudsman shall attach to every report sent or made under subsection (4) a copy of any comments made by or on behalf of the department or agency concerned.

(6) Notwithstanding anything in this section, the Ombudsman shall not, in any report made under this Act, make any comment that is adverse to any person unless the person has been given an opportunity to be heard.

26. (1) The Ombudsman shall in each year make a report to the Legislature on the exercise of his functions under this Act.

(2) The Ombudsman may, from time to time, in the public interest or in the interests of any person or department or agency publish reports relating

(*a*) generally to the exercise of his functions under this Act, or

(*b*) to any particular case investigated by him,

whether or not the matters to be dealt with in any such report have been the subject of a report to the Legislature.